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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA

5 v.

17 CR 417 (AKH)

6 ALI KOURANI,

7 Suppression Hearing

Defendant.

8 -----x

9 New York, N.Y.  
10 March 26, 2018  
11 11:00 a.m.

12 Before:

13 HON. ALVIN K. HELLERSTEIN

14 District Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN

17 Interim United States Attorney for the  
18 Southern District of New York

19 AMANDA L. HOULE

20 EMIL J. BOVE III

Assistant United States Attorneys

21 ALEXEI SCHACHT

22 Attorney for Defendant

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1 (Case called)

2 THE COURT: Good morning everyone. This is the United  
3 States v. Ali Kourani. We have Amanda Houle and Emil Bove for  
4 the government.

5 MS. HOULE: Good morning, your Honor.

6 THE COURT: With you is?

7 MS. HOULE: Your Honor, we have with us Michael  
8 DeLuca, who is a paralegal from our office.

9 THE COURT: Good morning, Mr. DeLuca.

10 For Mr. Kourani we have Alexei Schacht.

11 MR. SCHACHT: Good morning, your Honor.

12 THE COURT: Good morning. How shall we proceed, Ms.  
13 Houle?

14 MS. HOULE: Thank you, your Honor. Before we begin,  
15 one point about the proposed exhibits. The government has  
16 proposed a set of exhibits. We understand that with the  
17 exception of the 200 series and the 800 series, there is no  
18 objection from the defense to admitting these exhibits. As to  
19 the 200 series and 800 series, we understand from Mr. Schacht  
20 that he does not object to the authenticity of the exhibits,  
21 but he would prefer that we lay a foundation through a witness  
22 and that they are admitted to the extent that they are asked  
23 about on cross-examination.

24 THE COURT: Just do it. If there is an objection,  
25 I'll deal with it.

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1 MS. HOULE: Thank you, your Honor. As to the exhibits  
2 that are not objected to in advance --

3 THE COURT: Do not give me a mass offer. Give me them  
4 one by one.

5 MS. HOULE: Thank you, your Honor. The government has  
6 two witnesses that we propose to call, the first being Special  
7 Agent Joseph Costello.

8 THE COURT: I would like you to make a short opening.  
9 I would like to have you make a short opening and then have Mr.  
10 Schacht make a short opening and you will call the first of  
11 your two witnesses.

12 MS. HOULE: Thank you, your Honor. Your Honor has  
13 ordered this hearing after the defendant made a motion to  
14 suppress in this case. As your Honor's order indicated, the  
15 primary point at issue is whether or not any promises were made  
16 to the defendant by the FBI agents when he met with them in  
17 2017, and particularly whether the FBI agents ever promised the  
18 defendant or his attorney that he would not be prosecuted based  
19 on the statements that he made in those meetings, whether there  
20 was any conferral of immunity.

21 The government believes that the FBI agents will both  
22 testify that in the course of those meetings with the defendant  
23 and his attorney and in their separate conversations with that  
24 attorney they never made any sort of indication that the  
25 defendant would not be prosecuted, they never indicated that he

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1 had not committed any crimes, they never indicated that he  
2 would have any sort of immunity or protections for his  
3 statements.

4 THE COURT: Mr. Schacht.

5 MR. SCHACHT: Your Honor, I think the evidence here is  
6 going to show that there were three separate types of promises  
7 that were made by the FBI to my client. One type of promise  
8 that was repeatedly made was that everything that was going to  
9 be said or was said was going to remain confidential. Another  
10 type of promise that was going to be made was that what he was  
11 saying or going to say was not going to be used against him.  
12 The third type of promise that was made at one point was that  
13 he was not going to be prosecuted.

14 THE COURT: These are three separate promises?

15 MR. SCHACHT: Yes. There were many hours of meetings.  
16 They had five separate meetings.

17 THE COURT: I don't think in your papers you said  
18 three sets of promises.

19 MR. SCHACHT: I'm just categorizing them as sets.  
20 They are promises. I'm just putting them in different boxes to  
21 make it easier for you to follow.

22 THE COURT: From your papers I gather that there was  
23 one statement made to Mr. Kourani that his statements would be  
24 kept confidential. Maybe I remember wrongly, but I don't  
25 remember anything else in your moving papers.

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1                   MR. SCHACHT: Yes, your Honor. In addition to being  
2 promised that it would be kept confidential --

3                   THE COURT: Are there other statements in your moving  
4 papers that suggest other promises?

5                   MR. SCHACHT: Yes. I included in the moving papers  
6 the one-page document, the notes that were given by my client's  
7 them lawyer to the FBI. Contained within that document that  
8 your Honor has a copy of is a promise that my client would not  
9 be prosecuted. That is an exhibit that will be introduced  
10 today as well.

11                  THE COURT: I'm looking at the document.

12                  MR. SCHACHT: At the top you will see.

13                  THE COURT: The top line is what these meetings are  
14 not.

15                  MR. SCHACHT: Right. Then there are two sentences.  
16 At the end of one of the sentences, it says "It has been agreed  
17 that there will be no prosecution." That document was given to  
18 the FBI by the lawyer.

19                  THE COURT: So it is referring back to some other  
20 promise or agreement.

21                  MR. SCHACHT: Right. That is simply a physical  
22 manifestation of what the conversations were up until that  
23 point.

24                  THE COURT: What is the government's position, Ms.  
25 Houle?

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1 MS. HOULE: Mr. Schacht had just indicated that this  
2 line refers to a prior promise. But in fact in Mr. Denbeaux's  
3 declaration there is no specific promise that is ever  
4 articulated. He does not indicate when or how the FBI agents  
5 ever told him.

6 THE COURT: Denbeaux was not in the case earlier,  
7 right?

8 MS. HOULE: Mr. Denbeaux submitted a declaration, who  
9 was the attorney.

10 THE COURT: He came into the case at this time just  
11 before the meeting that was preceded by this memorandum?

12 MR. SCHACHT: Your Honor, Mr. Denbeaux was there the  
13 whole time. Mr. Denbeaux arranged the meetings with the FBI on  
14 behalf of Mr. Kourani, and he was present at all the meetings.

15 THE COURT: From the very beginning?

16 MR. SCHACHT: There were meetings prior to Mr. Den-  
17 beaux being involved, but those statements are not at issue in  
18 this case. The only statements at issue are the statements  
19 from the time that Mr. Denbeaux got involved afterward. Mr.  
20 Denbeaux will be here. I'll call him as a witness and you will  
21 be able to hear what he says happened.

22 THE COURT: Ms. Houle, put on your witness.

23 JOSEPH COSTELLO,

24 called as a witness by the government,

25 having been duly sworn, testified as follows:

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Costello - direct

1 DIRECT EXAMINATION

2 BY MS. HOULE:

3 Q. Mr. Costello, where do you work?

4 A. I'm a special agent at the Federal Bureau of Investigation.

5 Q. For how long have you been a special agent with the FBI?

6 A. Approximately three and a half years.

7 Q. Do you work on any particular squad?

8 A. I do. I serve on FBI New York's joint terrorism task force  
9 on squad CT-9.

10 Q. For how long have you served on squad CT-9?

11 A. Approximately two and a half years.

12 Q. Does CT-9 have any particular focus?

13 A. Yes. We are tasked with investigating Hezbollah's external  
14 security organization, the external terrorism wing task force.

15 Q. Does that wing within Hezbollah by any other names?

16 A. It does, the Islamic Jihad Organization, IJO; unit 910; or  
17 Hezbollah black ops.

18 Q. Before you were assigned to CT-9, did you have serve in any  
19 other squad with the FBI?

20 A. I did, I spent approximately a year on SO-13, surveillance  
21 squad.

22 Q. What generally are your duties as a special agent on the  
23 CT-9 squad?

24 A. I investigate individuals believed to be associated with  
25 Hezbollah's external security organization.

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Costello - direct

1 Q. What did you do before you were a special agent with the  
2 FBI?

3 A. I was a special agent with the United States Department of  
4 State diplomatic security service.

5 Q. During what years did you work there?

6 A. I worked there from 2010 until 2014.

7 Q. What generally were your duties there?

8 A. I was tasked with investigating passport fraud, visa fraud,  
9 human smuggling, human trafficking, and document fraud.

10 Q. Going first to your time as a special agent with the state  
11 department, did you participate in any training programs as  
12 part of that job?

13 A. I did. I took training in the Federal Law Enforcement  
14 Training Center's criminal investigative training program and  
15 also the Diplomatic Security Training Center's basic special  
16 agent course.

17 Q. Approximately when did you attend those trainings?

18 A. I was at the Federal Law Enforcement Training Center from  
19 approximately March of 2010 until June 2010, and at the  
20 Diplomatic Security Training Center from approximately July  
21 2010 until December 2010.

22 Q. What topics did those training programs cover?

23 A. The training programs covered a wide variety of topics:  
24 firearms, defensive driving, defensive tactics, legal inter-  
25 viewing, etc.

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Costello - direct

1 Q. Focusing on interviewing which you just described as one of  
2 the topics, could you describe that training generally.

3 A. Certainly. Both at the Federal Law Enforcement Training  
4 Center and Diplomatic Security Training Center, there are  
5 blocks of instruction called interviewing or interviewing and  
6 interrogation.

7 Q. What did that consist of?

8 A. They consisted of both what I would call the soft skills of  
9 interviewing: soliciting response, getting to know people.  
10 Also the legal side of things: Fourth Amendment protections,  
11 Fifth Amendment protections, right to counsel, custodial versus  
12 noncustodial interviews.

13 Q. What, if any, discussion was there at those trainings  
14 regarding discussing potential benefits with the subject of an  
15 interview?

16 A. One of the core precepts of the training is that as special  
17 agents of the U.S. government, we are not authorized to offer  
18 any benefits on behalf of the U.S. government.

19 THE COURT: Authorized to offer what?

20 THE WITNESS: Any sort of benefits, sir.

21 Q. When you say benefits, what are you referring to?

22 A. Prosecutorial immunity, fiscal incentives, immigration  
23 benefits.

24 Q. Are you aware of any exceptions to that rule?

25 A. No.

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Costello - direct

1 Q. Did you receive any similar interview training with the  
2 FBI?

3 A. I did.

4 Q. When was that?

5 A. I attended the FBI academy in Quantico, Virginia, from  
6 October 2014 until March 2015.

7 Q. Can you describe that interview training generally.

8 A. Sure. Very similar to my previous training. We had a  
9 block of instruction called interviewing and interrogation. It  
10 nearly mirrored my previously training in both the soft skills  
11 of interviewing but also the legal protections afforded  
12 interviewees.

13 Q. Was there any discussion at that training of discussions  
14 with subjects of interviews regarding potential benefits?

15 A. Yes, there was. Just the same as my previous training, we  
16 were taught that as special agents of the FBI we are not  
17 authorized to make any promises of goods, benefits, or services  
18 on behalf of the U.S. government.

19 Q. Are you aware of any exceptions to that rule?

20 A. No.

21 Q. Have you previously met the defendant Ali Kourani?

22 A. I have.

23 Q. When did you first meet the defendant in person?

24 A. August 2016.

25 Q. Where was that?

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Costello - direct

1 A. Beirut, Lebanon.

2 Q. Why had you traveled to Lebanon?

3 A. I traveled to Lebanon at that time because I had been  
4 notified that Mr. Kourani had come into the United States  
5 embassy and was looking to speak with someone from the U.S.  
6 government.

7 Q. Did you have any understanding about what he wanted to  
8 speak about?

9 A. My understanding was that Mr. Kourani had been in some sort  
10 of altercation and would like to speak about that.

11 THE COURT: Altercation with whom?

12 THE WITNESS: At that point, sir, I'm not entirely  
13 sure if I knew the specifics, but that he had been in a family  
14 altercation.

15 Q. Did you meet with the defendant that day?

16 A. When I went to Beirut, yes.

17 Q. Who else was present?

18 A. Myself, Special Agent Gary Batista from my squad, and a  
19 representative from the U.S. Department of State.

20 Q. You mentioned that before you went into the meeting you  
21 understood that the defendant wanted to discuss some sort of  
22 altercation, right?

23 A. Yes.

24 Q. Did you discuss that with the defendant during your  
25 meeting?

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Costello - direct

1 A. I did.

2 Q. What did he say about that?

3 A. The defendant stated that he was in I guess a child custody  
4 dispute with his wife that escalated into some sort of physical  
5 fight between himself, his wife, his mother-in-law; and that  
6 based off of that altercation, his wife's family, some of which  
7 are evidently Hezbollah militia members, assaulted the  
8 defendant.

9 Q. Was there any further discussion with the defendant of  
10 Hezbollah at that meeting?

11 A. Yes, there was.

12 Q. What was discussed?

13 A. I asked the defendant pointedly if he was a member of  
14 Hezbollah and if he would be willing to discuss his involvement  
15 with Hezbollah. He stated that he was not and maintained that  
16 throughout the interview, but did provide his brother Kassem  
17 was a Hezbollah member and political head of Hezbollah in his  
18 home village.

19 Q. What, if any, discussion was there with the defendant about  
20 the defendant cooperating with the FBI at that meeting?

21 A. The defendant volunteered he would be willing to meet  
22 further with the FBI once he returned to the U.S. We stated to  
23 the defendant unless he was willing to discuss his involvement  
24 with Hezbollah, we were uninterested in having that meeting.

25 Q. To be clear, who raised the topic of potential cooperation?

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Costello - direct

1 A. The defendant.

2 Q. How did this meeting end?

3 A. The meeting ended with the state department representative  
4 returning the defendant his passport, and he was escorted from  
5 the U.S. embassy grounds.

6 Q. Did you later learn that defendant was again interested in  
7 speaking with the FBI?

8 A. I did.

9 Q. Turning your attention to what has been marked for  
10 identification as Government Exhibit 101, there is a binder by  
11 you but then it also should appear on the screen, whichever you  
12 prefer. What is this document?

13 A. This document is an email I received from the FBI's public  
14 access line on March 1st of 2017.

15 MS. HOULE: Your Honor, the government respectfully  
16 moves to admit Government Exhibit 101 into evidence.

17 MR. SCHACHT: No objection.

18 THE COURT: Received.

19 (Government's Exhibit 101 received in evidence)

20 Q. Special Agent Costello, what is the date of the email?

21 A. It is dated March 1st, 2017.

22 Q. To whom was this email sent?

23 A. Myself and Special Agent Keri Shannon, also a member of  
24 squad CT-9 in New York.

25 Q. Can you please read the email into the record.

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Costello - direct

1 A. Sure.

2 THE COURT: It's in the record. Is there something  
3 there you want to ask him about?

4 Q. Special Agent Costello, on the first line of the email the  
5 person who sends the email identifies themselves as a customer  
6 service representative at the FBI public access line. What is  
7 that?

8 A. My understanding is the FBI's public access line is a phone  
9 number for the public to contact the FBI regarding allegations  
10 of criminal offenses or just to speak with the FBI.

11 Q. The second full paragraph begins, "On March 1, 2017, Mark  
12 Denbeaux," and it indicates a telephone number that he  
13 provided, "wanted to discuss his client with the FBI. Denbeaux  
14 would not provide his client's identity but did mention his  
15 client was Middle Eastern descent. Denbeaux stated that the  
16 FBI is interested in his client and that the client is now  
17 willing to meet with the FBI agents." Then there is an  
18 indication that Mr. Denbeaux had reached out to Special Agent  
19 Shannon previously.

20 A. Yes.

21 Q. What did you infer from this message?

22 A. That Mr. Denbeaux was an attorney and had an individual who  
23 would like to speak with the FBI.

24 Q. At the time that you received this email, did you  
25 understand who Mr. Denbeaux's client was?

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Costello - direct

1 A. No, I did not.

2 Q. What, if anything, did you do in response to this email?

3 A. Myself and Special Agent Shannon placed a phonecall to Mr.  
4 Denbeaux.

5 Q. Turning your attention to March 22nd, 2017, did you  
6 participate in a phonecall with Mr. Denbeaux on that day?

7 A. I did.

8 Q. Was Special Agent Shannon also on the call?

9 A. She was.

10 Q. By the time of this call, did you understand who Mr.  
11 Denbeaux's client was?

12 A. Yes, I did.

13 Q. How did you understand that?

14 A. I believe in a previous phonecall Mr. Denbeaux had identi-  
15 fied his client as the defendant.

16 Q. A previous phonecall with whom?

17 A. Special Agent Shannon.

18 Q. Turning to that call on March 22nd with Mr. Denbeaux, did  
19 Mr. Denbeaux ask any questions on that call?

20 A. He did. He inquired if his client, Mr. Kourani, was the  
21 target of an FBI investigation. I stated to Mr. Denbeaux that  
22 it is the policy of the FBI not to comment or discuss the  
23 status of ongoing investigations. He had two other questions  
24 as well.

25 Q. Holding with that first question, was there any further

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Costello - direct

1 discussion of whether the defendant was a target of the FBI's  
2 investigation?

3 A. Yes. Mr. Denbeaux posited that he did not believe the  
4 defendant cared one way or the other whether he was a target in  
5 the investigation.

6 THE COURT: Say what he said. What was the question  
7 and what was the answer? Ms. Houle, bring it out.

8 Q. You indicated that Mr. Denbeaux asked whether or not the  
9 defendant indicated that he was a target?

10 A. Correct.

11 Q. And that you responded that there was a policy of the FBI  
12 not to share that information?

13 THE COURT: Don't testify for him.

14 MS. HOULE: I'm sorry, your Honor.

15 THE COURT: Was there a discussion at this meeting,  
16 phonecall, of March 22, 2017, about prosecution?

17 THE WITNESS: No, sir, there was not.

18 THE COURT: Was there discussion about any kind of  
19 immunity?

20 THE WITNESS: No, sir, there was not.

21 THE COURT: Was there a discussion of any kind of  
22 motivation that Mr. Kourani was identified at that time?

23 THE WITNESS: Yes, your Honor.

24 THE COURT: Was there a discussion of whatever need he  
25 had, whatever motivation he had?

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Costello - direct

1           THE WITNESS: No, your Honor.

2           THE COURT: How did the question of being a target  
3 come up?

4           THE WITNESS: Mr. Denbeaux, to the best of my  
5 recollection, your Honor, inquired of me, he asked is Mr.  
6 Kourani the target of an FBI investigation.

7           THE COURT: Did you answer?

8           THE WITNESS: I did. I stated it's the policy of the  
9 FBI not to discuss the status of ongoing investigations.

10          THE COURT: What did he say?

11          THE WITNESS: He said he understood and that he didn't  
12 think it mattered to Mr. Kourani one way or the other if he was  
13 the target of an investigation.

14          THE COURT: Go on.

15                         (Continued on next page)

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Costello - Direct

1 BY MS. HOULE:

2 Q. Did you give any indication on this call as to what the  
3 FBI's interest in Mr. Kourani was?

4 A. No, I did not. But I did state -- excuse me --  
5 Mr. Denbeaux did ask me than and I stated that he could speak  
6 to Mr. Kourani and that we'd previously made clear our  
7 objectives in speaking to Mr. Kourani.

8 Q. What did you mean by that when you told him that?

9 A. When I met with Mr. Kourani in August of 2016 in Beirut I  
10 pointedly asked him, we were interested in his involvement  
11 where Hezbollah, I believe at that time that he knew why the  
12 FBI was interested in speaking with him and Mr. Denbeaux could  
13 speak to Mr. Kourani regarding it.

14 Q. Did Mr. Denbeaux raise any concerns on the call?

15 A. He did. Mr. Denbeaux was concerned about it being  
16 confidential, that Mr. Kourani was going to speak with the FBI.  
17 I stated we would do that.

18 Q. Was there any discussion about whether the FBI would tell  
19 anyone outside the Lebanese community that the defendant was  
20 meeting with the FBI?

21 A. Not at that juncture, no.

22 Q. Prior to this call with Mr. Denbeaux had you approached  
23 anyone in the Lebanese community to discuss the defendant?

24 A. I did.

25 Q. With whom did you meet?

13QAAKOU2

Costello - Direct

1 A. I spoke to the defendant's mother. I spoke to a family  
2 friend or a cousin of the defendant and I spoke to the  
3 defendant's former employers.

4 Q. When generally did those meetings take place?

5 A. Summer into fall 2016.

6 Q. What was the purpose of those meeting?

7 A. To identify if they'd had any information regarding  
8 Hezbollah but also to telegraph the defendant the importance of  
9 the case.

10 Q. What do you mean by that?

11 A. When other agents had previously met with the defendants we  
12 had stated we were going to expand our investigation to see if  
13 they had any investigation regarding involvement with  
14 Hezbollah.

15 Q. Did you visit any prior employer of the defendant?

16 A. I did.

17 Q. Who was that?

18 A. Two brothers, Hiqmak and Ibrahim Ali.

19 Q. Based on your experience of this investigation and your  
20 review of the case file, were FBI interviews conducted of any  
21 other employer of the defendant?

22 A. Not that I recall, no.

23 Q. Did the topic of Hezbollah come up during any of these  
24 meetings that you've just described?

25 A. Yes.

13QAAKOU2

Costello - Direct

1 Q. In what context?

2 A. We asked the defendant's mother if she knew her son to be a  
3 member of Hezbollah. We asked the defendant's family friend  
4 and cousin if he knew the defendant to be a member of  
5 Hezbollah. And I believe with the employers we may not have  
6 said had "Hezbollah" specifically but we used the word  
7 "terrorism".

8 THE COURT: What was the answer?

9 THE WITNESS: From who, sir?

10 THE COURT: Mother.

11 THE WITNESS: She said she did not know her son to be  
12 a member of Hezbollah.

13 MS. HOULE: May I move on, your Honor?

14 THE COURT: Yes.

15 Q. Turning back to your March 22nd call with Mr. Denbeaux, in  
16 response to the judge's question you indicated that there was  
17 no discussion of immunity; is that correct?

18 A. Correct.

19 Q. Could you have offered the defendant immunity at that time?

20 A. No.

21 Q. Why not?

22 A. As I was trained as a special agent of the FBI, I'm not  
23 authorized to offer immunity.

24 Q. Based on yours experience as a special agent, what's your  
25 understanding of the process for making any sort of offer of

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Costello - Direct

1 immunity to any target of an investigation?

2 A. My understanding is I take in the information or the  
3 allegation of criminal activity. I then share it with my chain  
4 of command at the FBI and then we liaise directly with the  
5 appropriate U.S. Attorney's Office and the ultimate decision  
6 for any sort of immunity comes from the United States  
7 Attorney's office, not from the FBI.

8 Q. Prior to your March 22 call with Mr. Denbeaux, had been in  
9 contact with the U.S. Attorney's Office for the Southern  
10 District of New York in relation to Mr. Kourani?

11 A. Yes.

12 Q. What, if any, discussions did have you with the U.S.  
13 Attorney's Office regarding immunity for the defendant?

14 THE COURT: With whom?

15 Q. Did you have any discussions with any representative from  
16 the U.S. Attorney's Office for the Southern District regarding  
17 immunity?

18 A. No.

19 Q. Were you ever given any authorization from the U.S.  
20 Attorney's Office to over the defendant immunity?

21 A. No, I was not.

22 Q. Did you have any discussions with anyone at the FBI about  
23 offering the defendant immunity?

24 A. No, I did not.

25 Q. Following this March 22 call with Mr. Denbeaux, did you

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Costello - Direct

1 meet with the defendant and Mr. Denbeaux?

2 A. I did.

3 Q. Why did you agree to the meet with the defendant?

4 A. We were interested in hearing the defendant's information  
5 regarding his involvement with Hezbollah.

6 Q. I'd like to cover some details of those meetings but before  
7 we do, a few general questions.

8 At any time during any of your meetings with the  
9 defendant or Mr. Denbeaux or any phone calls with the defendant  
10 or Mr. Denbeaux, did you ever offer immunity for the defendant?

11 A. No, I did not.

12 Q. Were you ever asked about immunity?

13 A. No, I was not.

14 Q. Did you ever promise that the defendant's statements would  
15 not be used against him?

16 A. No, I did not.

17 Q. Were you ever asked if his statements would be used against  
18 him?

19 A. No, I was not.

20 Q. I'd like to turn to that first meeting that you had with  
21 the defendant and Mr. Denbeaux; was that on March 23, 2017?

22 A. Yes, it was.

23 Q. Where did that meeting take place?

24 A. Seton Hall University Law School.

25 Q. What was the setting for the meeting?

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Costello - Direct

1 A. A conference room in the law school.

2 Q. Why was the meeting held at Seton Hall?

3 A. Mr. Denbeaux worked there and I believe it was convenient  
4 to both the defendant and Mr. Denbeaux.

5 Q. Who else was present?

6 A. Myself, Special Agent Keri Shannon from my squad, the  
7 defendant and Mr. Denbeaux.

8 Q. How were you dressed for the meeting?

9 A. I was in business attire without a tie.

10 Q. How was Special Agent Shannon dressed?

11 A. The same.

12 Q. Did you display your firearm at any time during the  
13 meeting?

14 A. No, I did not.

15 Q. Did you see Special Agent Shannon display her firearm?

16 A. No, I did not.

17 Q. During the course of those meetings were you dressed in  
18 business attire?

19 A. I was.

20 Q. Was Special Agent Shannon?

21 A. She was.

22 Q. Did you ever display your firearm?

23 A. No, I did not.

24 Q. Did you ever observe her display her firearm?

25 A. No, I did not.

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Costello - Direct

1 Q. How did you introduce yourself at the start of the meeting?

2 A. Given that it had been some time since I had met

3 Mr. Kourani and I'd yet to meet Mr. Denbeaux in person, I

4 introduced myself in what I would call my official format. I

5 introduced myself as Special Agent Joseph Costello of the FBI,

6 that they can call me "Joe".

7 Q. Did you see how Special Agent Shannon introduced herself?

8 A. She did the same.

9 Q. Following those introductions, how to the meeting begin?

10 A. The meeting began with Mr. Kourani positing how he why felt

11 the FBI was interested in speaking with him. I stated it

12 wasn't important why he felt we were there. What was more

13 important was speaking with him regarding his involvement with

14 Hezbollah.

15 Q. What happened next during the meeting?

16 A. Mr. Kourani then began to posit on what he felt he was

17 entitled to if he were to cooperate with the U.S. government.

18 I immediately cut him off and explained to him and Mr. Denbeaux

19 that as a Special Agent of the FBI could not offer any promise

20 of any benefit or service on behalf of the government for his

21 cooperation.

22 Q. What's, specifically, did the defendant request?

23 A. The defendant mentioned he had a sister and father in

24 Lebanon that he'd like visas for. And at that point he had

25 some child care custody issues with his wife who was living

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Costello - Direct

1 with his children in Canada.

2 Q. Was there any discussion of what would need to happen  
3 before there could be any further discussion within the FBI  
4 about benefits for the defendant?

5 A. Yes. I explained to the defendant that should he be  
6 completely cooperative and forthcoming regarding his  
7 involvement with Hezbollah and should individuals outside of  
8 the FBI decide that cooperation merited benefits, that it would  
9 involve a great deal of government bureaucracies both within  
10 the Department of Justice but also with U.S. Department of  
11 State, the Department of Homeland Security and finally the  
12 government of Canada based off the types of benefits the  
13 defendant wanted. I tried to explain to him that they were  
14 quite complicated in achieving and that we would have to share  
15 a lot of information and it would take some time.

16 Q. When you say share a lot of information, what specifically  
17 did you say to the defendant about that?

18 A. He would have to be completely forthcoming on his  
19 involvement with Hezbollah and that information, the principle  
20 information would have to be shared with all equity partners on  
21 the defendant's behalf.

22 Q. What do you mean by "equity partners"?

23 A. The U.S. Department of State, Homeland Security and finally  
24 the government of Canada.

25 Q. During this meeting what, if any, discussions was there of

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Costello - Direct

1 a timeframe for the defendants requests?

2 A. The defendant asked me for an estimate for the benefits he  
3 wanted. I explained the defendant I felt very uncomfortable  
4 giving him an answer on the timeframe for these benefits. I  
5 stated to him that I didn't like to give that answer because it  
6 could seem as if I'm making some sort of, not promise but and  
7 secondly, I'd be speaking for a variety of government agencies  
8 of which I have no visibility or direct knowledge of. So at  
9 that point I made a phone call. After a break I called my  
10 supervisor regarding that question.

11 Q. Following your discussion with your supervisor, what did  
12 you do?

13 A. I again explained to the defendant with those two caveats  
14 that I'll give you an estimate but it's not a promise. It's  
15 just an estimate. And secondly, that it is an estimate based  
16 off my limited knowledge of these other agencies and  
17 governments and that it's just a guestimate. Because I felt so  
18 uncomfortable giving him that answer, I asked that he  
19 acknowledge and affirm that he understood that it was just an  
20 estimate, that it was no promise and he understood the caveats  
21 which he did. At that point I said we were meeting in March.  
22 Maybe the end of summer those benefits could happen.

23 Q. You say that you asked the defendant to acknowledge the  
24 caveats and that he did. What did he say?

25 A. He said he did. He said, yes, I did.

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Costello - Direct

1                   THE COURT: I missed that. Do it again.

2 Q. You said that you asked the defendant to acknowledge the  
3 caveats that you just described.

4 A. Correct.

5 Q. And that he did. How did he acknowledge them?

6 A. I wanted the defendant --

7                   THE COURT: What did you say and what did he say?

8 A. I said, Mr. Kourani, I need you to understand that this is  
9 just an estimate, that it's not a promise and that i's just a  
10 best guess and I need you to tell me you understand that. And  
11 he said, I do.

12 Q. Did the defendant raise any safety concerns connected to  
13 his time in Lebanon during that meeting?

14 A. A little bit. He discussed the altercation he had had in  
15 August with the Hezbollah militia members and his wife's  
16 family.

17 Q. What more did he say about that?

18 A. The defendant felt that based, if he -- based off that  
19 previous time that Hezbollah would be unhappy with him based  
20 off that fight.

21 Q. When you say "that fight" what are you referring to?

22 A. Based off the child custody dispute with his wife and his  
23 mother-in-law, individuals in her family who according to the  
24 defendant are Hezbollah members had attempted to assault him  
25 and may still be angry with him.

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Costello - Direct

1 Q. During this meeting did the defendant make any admissions  
2 that you considered significant?

3 A. Yes.

4 Q. What was that?

5 A. He stated that he was a member of Hezbollah and a member of  
6 the ESO.

7 Q. Did he use the term "ESO"?

8 A. No, he did not.

9 Q. What term did he use?

10 A. He used Unit 910 Islamic Jihad and Hezbollah black ops.

11 Q. Did the defendant describe any training that he received as  
12 part of his membership in Unit 910?

13 A. He did. He discussed some of the training he received in  
14 small arms, explosives, small unit tactics and also  
15 interviewing and interrogation training.

16 Q. What did he say about training on interview and  
17 interrogation?

18 A. The defendant stated he was trained to only admit to what  
19 was proven in front of him. So if a security service were to  
20 question him, to not surrender any facts that they could not  
21 prove or they did not know regarding his involvement with ESO.

22 Q. During the March 23 meeting, was there any discussion of  
23 immunity?

24 A. No, there was no not.

25 Q. Was there any discussion of whether the defendant's

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Costello - Direct

1 statements could be used against him?

2 A. No, there was not.

3 Q. Was there any discussion of any legal implications if the  
4 defendant lied to the FBI?

5 A. Yes, there was. Early in the meeting I stated to the  
6 defendant that it was important in meeting with us that he be  
7 completely truthful and forthcoming and provide the whole and  
8 complete truth and that lying to the FBI could raise legal  
9 issues.

10 Q. How did this meeting end?

11 A. The meeting ended with me reminding, thanking the defendant  
12 for his cooperation but reminding him that while I was  
13 appreciative of his cooperation to date, we had a lot more to  
14 go and that at no point whether then or now could I make any  
15 promises of any benefits of the things that he wanted. The  
16 defendant and Mr. Denbeaux stated they acknowledged it. They  
17 were kind of laughing, that I'd said it so many times they said  
18 I sounded like a broken record. I said to Mr. Denbeaux, give me  
19 a break. I'm just a government bureaucrat doing my job, so to  
20 speak. To which point Mr. Denbeaux said, don't tell me that.  
21 That's the same thing the Nazis said in World War II and the  
22 cops who sprayed Black people with hoses said. I said I found  
23 that very offensive then left.

24 Q. What was your next communication with Mr. Denbeaux?

25 A. Approximately 15 minutes I received a text message from

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Costello - Direct

1 Mr. Denbeaux.

2 Q. Turning your attention to Government Exhibit 301. What is  
3 that?

4 A. That is a picture of my cellular telephone.

5 Q. Did you take that picture?

6 A. I did.

7 MS. HOULE: Your Honor, the government moves to admit  
8 Government Exhibit 301 into evidence.

9 MR. SCHACHT: No objection.

10 THE COURT: Received.

11 (Government's Exhibit 301 received in evidence)

12 Q. Mr. Costello, is this the text message that you received  
13 from Mr. Denbeaux?

14 A. It is.

15 Q. Could you please read the top three messages and indicate  
16 who wrote what?

17 A. Sure.

18 From Mr. Denbeaux: I understand that you can't  
19 promise or guarantee.20 From myself: Thank you. I'm glad we're on the same  
21 page.

22 From Mr. Denbeaux: We always were.

23 Q. What did you understand Mr. Denbeaux to mean when he wrote  
24 "that he can't promise or guarantee"?

25 A. Because I had said so many times throughout that first

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Costello - Direct

1 meeting that we appreciated the defendant's cooperation but  
2 that we could not make any promises of anything, benefits,  
3 prosecutorial immunity, that we could only be the messenger, I  
4 acknowledged this to be Mr. Denbeaux acknowledging to me that  
5 he understood that on and based off how the meeting had  
6 ended -- he wanted to tell me. He understood.

7 Q. You just mentioned "prosecutorial immunity" in your answer.  
8 I just want to make sure that we're clear. During the meeting  
9 was there any discussion of prosecutorial immunity?

10 A. No.

11 Q. But when you reviewed Mr. Denbeaux's text message what were  
12 you saying then about prosecutorial immunity?

13 A. I think I just meant that I said throughout the interview I  
14 can't make any patrol promises. I used the phrase a lot. I am  
15 just the messenger. So I assume Mr. Denbeaux being an attorney  
16 understood that.

17 Q. What was your assessment after this initial meeting with  
18 the defendant and Mr. Denbeaux about the defendant's attempted  
19 cooperation?

20 A. I felt the defendant had been truthful and honest but we  
21 still had a lot of information regarding his involvement with  
22 Hezbollah to get to.

23 Q. Turning your attention to March 30, 2017, did you meet with  
24 Mr. Denbeaux on that date?

25 A. I did.

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Costello - Direct

1 Q. Where did that meeting take place?

2 A. Seton Hall University Law School.

3 Q. Was the defendant present?

4 A. No, he was not.

5 Q. Why not?

6 A. My understanding was either the defendant or Mr. Denbeaux  
7 had mixed up the dates and as such it was just myself, Special  
8 Agent Shannon and Mr. Denbeaux.

9 Q. What happened during that meeting?

10 A. We had a very informal conversation. I think we went and  
11 got coffee. I just spoke informally to Mr. Denbeaux about  
12 Hezbollah's Unit 910 and that the information Mr. Kourani had  
13 was significant and very important. And then I kind of  
14 provided Mr. Denbeaux, I provided Mr. Denbeaux a little bit of  
15 background on Unit 910. I explained to him that Unit 910 is a  
16 very capable threat to U.S. national security that they were  
17 worldwide.

18 THE COURT: Slow down.

19 Q. Slow down but proceed.

20 A. Sure. I stated that they were a very capable threat, that  
21 while you may not hear of them like your hear of ISIS or  
22 al-Qaeda but they are a capable and deadly organization. And  
23 just to provide him some historical framework I talked about a  
24 few of Unit 910's successful attacks, the 1992 and 1994  
25 bombings in Argentina and then the 2012 Burgas, Bulgaria bus

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Costello - Direct

1 attack.

2 Q. Why did you provide Mr. Denbeaux that information about  
3 Unit 910?

4 A. I felt Mr. Denbeaux should know that Mr. Kourani's  
5 information was of great importance and that it would take a  
6 significant amount of time to get the full breadth of this  
7 information.

8 Q. Was there any discussion of immunity for the defendant  
9 during that meeting with Mr. Denbeaux?

10 A. No, there was not.

11 Q. Was there any discussion about whether the defendant's  
12 statements would be used against him?

13 A. No, there was not.

14 Q. Turning your attention to April 2, 2017, did you speak with  
15 Mr. Denbeaux by phone that day?

16 A. I did.

17 Q. Who else was on the call?

18 A. Just myself and Mr. Denbeaux.

19 Q. What was discussed?

20 A. Mr. Denbeaux stated he had spoken with the defendant by  
21 phone and that the defendant remained adamant that if he were  
22 to continue to cooperate with the U.S. Government he would like  
23 certain benefits. Mr. Denbeaux relayed to me that he reminded  
24 the defendant that we would not be making any promises. I  
25 thanked Mr. Denbeaux for echoing how I felt and I then restated

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Costello - Direct

1 Mr. Denbeaux that we would need the whole and complete truth  
2 regarding Mr. Kourani's involvement with 910 and then we would  
3 relay it to the appropriate entities regarding his demands.

4 Q. Was there any discussion of immunity for the defendant  
5 during this call?

6 A. No, there was not.

7 Q. Did you make any promise that the defendant's statements  
8 would not be used against him?

9 A. No, I did not.

10 Q. Turning your attention to the following day, April 3, 2017,  
11 did you meet with the defendant that day?

12 A. I did.

13 Q. Who was else was present?

14 A. Myself, Special Agent Shannon, the defendant and  
15 Mr. Denbeaux.

16 Q. Where was that meeting held?

17 A. The same conference room that we had met previous at Seton  
18 Hall Law School.

19 Q. How did that meeting begin.

20 A. The meeting began with the defendant stating he wanted a  
21 job in his field.

22 Q. I'm sorry to interrupt you but before you even began your  
23 discussions with the defendant when you first entered the room,  
24 how did the meeting began?

25 A. Mr. Denbeaux had provided us a piece of paper that he

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Costello - Direct

1 stated were his thoughts on the meeting at that point. I took  
2 a look at it and I had Special Agent Shannon take a look at it  
3 and I asked for a break to speak about it with Special Agent  
4 Shannon.

5 Q. What happened next?

6 A. Special Agent Shannon and I went out into the hallway  
7 alone. We took a quick look at Mr. Denbeaux's thoughts. I saw  
8 some things I disagreed with and we both agreed that we  
9 disagreed. We were there to speak with Mr. Kourani regarding  
10 his involvement with Hezbollah and we would like to proceed  
11 with the interview.

12 MS. HOULE: Could pull up Government Exhibit 703.

13 (Pause)

14 Q. Do you recognize this document, Special Agent Costello?

15 A. I do.

16 Q. What is this?

17 A. It appears to be the document that Mr. Denbeaux had  
18 provided to us that morning.

19 MS. HOULE: Government offers Government Exhibit 703.

20 MR. SCHACHT: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 703 received in evidence)

23 Q. You said there were things --

24 THE COURT: What's the date again of this meeting?

25 THE WITNESS: April 3, your Honor.

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Costello - Direct

1                   THE COURT: 2017?

2                   THE WITNESS: Yes, sir.

3 Q. What were the things that you didn't agree with on this  
4 document?

5 A. So I didn't read much of it but I saw things I disagreed  
6 with. Namely, it states because it has already been agreed he  
7 has committed no crime and faces no prosecution. I didn't know  
8 who Mr. Denbeaux thought he was speaking for. We had never  
9 discussed anything like that and so that's what I disagreed  
10 with chiefly.

11 Q. When you say you didn't know who Mr. Denbeaux thought he  
12 was speaking for, what do you mean?

13 A. I didn't know if Mr. Denbeaux was speaking for himself and  
14 Mr. Kourani speaking for himself and the FBI or anyone else.

15                   THE COURT: What did you say to Denbeaux?

16                   THE WITNESS: I didn't say anything, sir.

17                   THE COURT: You just questioned yourself?

18                   THE WITNESS: Yes, sir.

19                   THE COURT: Internally?

20                   THE WITNESS: Yes, sir.

21                   THE COURT: I am more interested in what you said to  
22 Denbeaux.

23 Q. What happened when you went back into the room?

24 A. We returned to room. I return the piece of paper to  
25 Mr. Denbeaux. I stated those are your thoughts. We have a lot

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Costello - Direct

1 to get through with Mr. Kourani.

2 Q. Were you asked any questions about this document when you  
3 returned to the room?

4 A. No, I was not. Special Agent Shannon and I did discuss if  
5 we were going asked but we were not there for Mr. Denbeaux  
6 thoughts. We were there for Mr. Kourani's information.

7 THE COURT: Denbeaux said in line number two he has  
8 already been agreed he committed no crime and faces no  
9 prosecution. What, if anything, did you say to Denbeaux about  
10 that phrase.

11 THE WITNESS: He never asked me about it and --

12 THE COURT: But it's in the memo he gave you.

13 THE WITNESS: Correct.

14 THE COURT: Was it a part of the discussion that you  
15 and Shannon had?

16 THE WITNESS: Yes. That was what we saw --

17 THE COURT: You saw that line and you disagreed with  
18 it?

19 THE WITNESS: Yes, your Honor.

20 THE COURT: Both of you went back into the meeting and  
21 didn't say word to Denbeaux about this?

22 THE WITNESS: Again, I didn't really know what this  
23 document was.

24 THE COURT: You know it was given to you by  
25 Denbeaux --

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Costello - Direct

1           THE WITNESS: Correct.

2           THE COURT: Denbeaux is the lawer for Kourani, no?

3           THE WITNESS: Correct.

4           THE COURT: So you know that Denbeaux was giving you a  
5 memorandum of what he thought this meeting was going to be,  
6 correct?

7           THE WITNESS: I don't understand what it was.

8           THE COURT: He gave it to you as a memorandum.

9           THE WITNESS: Correct.

10          THE COURT: And you read it?

11          THE WITNESS: Just the first part.

12          THE COURT: What's the first part?

13          THE WITNESS: Just the first few points.

14          THE COURT: Then you stopped reading?

15          THE WITNESS: Yes. I immediately saw --

16          THE COURT: What did you say to Denbeaux?

17          THE WITNESS: Nothing. We returned to him and --

18          THE COURT: When you saw it and read it. He produced  
19 this at the meeting and you read it.

20          THE WITNESS: I asked for a break to speak to Special  
21 Agent Shannon, your Honor.

22          THE COURT: You spoke with Shannon about it.

23          THE WITNESS: Yes, your Honor.

24          THE COURT: You both said you don't agree with this  
25 statement.

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Costello - Direct

1 THE WITNESS: Correct.

2 THE COURT: Well, how could you go back and not tell  
3 Denbeaux you disagreed?4 THE WITNESS: I thought it was more important we were  
5 there for Mr. Kourani's information at that time.6 THE COURT: Do you think it's possible that this was  
7 misleading to Mr. Kourani?8 THE WITNESS: Mr. Denbeaux stated it was his thoughts  
9 on the matter.10 THE COURT: Well, he is the lawyer, isn't he, for  
11 somebody.

12 THE WITNESS: True.

13 THE COURT: For Kourani?

14 THE WITNESS: Yes, sir.

15 THE COURT: So whether he is speaking as a lawyer for  
16 Kourani you have to take it as Kourani's concerns as well.17 THE WITNESS: Yes, your Honor. But again, he is  
18 referring to discussions that never happened. So I was not  
19 really sure where it was coming from and more to that point it  
20 just seemed very unusual to me.

21 THE COURT: Well then, why not ask him about it?

22 THE WITNESS: I figured he would ask us about it.

23 THE COURT: Well, he says so in a memorandum.

24 THE WITNESS: I'm not sure I follow.

25 THE COURT: Weren't you concerned with that statement

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Costello - Direct

1 in the memorandum that Kourani could be misled?

2 THE WITNESS: I was significantly concerned to the  
3 point I'd told Special Agent Shannon that we would not be  
4 signing this memorandum. We would not be keeping a copy. And  
5 if we were to be asked by Mr. Denbeaux regarding any of the  
6 points that we had read, we would be upfront with him, that he  
7 is speaking about a discussion that never occurred --

8 THE COURT: But he is giving you the ground rules for  
9 a meeting.

10 THE WITNESS: He never described them as such.

11 THE COURT: How would you take them. Were these  
12 meetings or no?

13 THE WITNESS: That's what I didn't understand at the  
14 time. He never went ever it with us. He just said, these are  
15 my thoughts and that was it.

16 MS. HOULE: May I proceed, your Honor?

17 THE COURT: No.

18 Did you understand that paragraphs 4A through E were  
19 the concerns of Kourani?

20 THE WITNESS: I didn't even read those, your Honor, at  
21 that time.

22 THE COURT: Now that you read it, did you believe at  
23 the time that these accurately expressed the concerns of  
24 Kourani?

25 THE WITNESS: It's difficult for me to say what

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Costello - Direct

1 Mr. Kourani's concerns were. He was more vocal at that time  
2 about what he wanted in terms of benefits not concerns.

3 THE COURT: But did he tell you that he thought  
4 cooperation might endanger him.

5 THE WITNESS: I think he felt that Hezbollah should  
6 not know he is cooperating.

7 THE COURT: Did he express to you that he might be  
8 endangering his life by talking to you?

9 THE WITNESS: I don't think he said it explicitly,  
10 your Honor.

11 THE COURT: How did he say it?

12 THE WITNESS: He discussed an altercation in  
13 August 2016.

14 THE COURT: He was concerned that Hezbollah would get  
15 back at him.

16 THE WITNESS: Yes.

17 THE COURT: You knew that?

18 THE WITNESS: That altercation was unrelated to him  
19 meeting with the FBI.

20 THE COURT: You knew he wanted to move his mother and  
21 father to the United States?

22 THE WITNESS: Yes. I knew his father and his sister.  
23 I did not know about his mother until recently now, your Honor.

24 THE COURT: Go ahead, Ms. Houle.

25 Q. What happened next during the meeting?

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Costello - Direct

1 A. Mr. Kourani then posited that he wanted a \$120,000 a year  
2 annually from the U.S. government if he were to cooperate, a  
3 job in his field. I again, cutoff Mr. Kourani. I laughed. I  
4 said make more money than I do. We're here to discuss your  
5 involvement with Hezbollah. We can't make promises. We can  
6 only take the information and relay it to the appropriate  
7 entity at the Department of Justice.

8 Q. What, if anything, did the defendant say in response?

9 A. He stated he understood. At every juncture I would say  
10 does he understood but he still discussed it.

11 Q. You testified that in a March 23 meeting there was some  
12 discussion by the defendant of training that he received by 910  
13 relating to interrogation?

14 A. I did.

15 Q. Was there any similar discussion at this meeting?

16 A. Yes. He discussed a weeklong training program he attended  
17 in 2011.

18 THE COURT: Who is "he"?

19 THE WITNESS: The defendant, your Honor.

20 THE COURT: Kourani?

21 THE WITNESS: Yes, sir.

22 A. The defendant stated he attend a weeklong training program  
23 in Lebanon with ESO on interviewing and interrogation. And the  
24 defendant also stated that he has done a lot of self study on  
25 interviews, interrogations and solicitation techniques.

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Costello - Direct

1 Q. Was there any discussion at this meeting about the  
2 defendant's prior interactions with members of 910 and their  
3 concerns that the defendant might be a government informant?

4 A. Yes. The defendant discussed a meeting he had with his 910  
5 handler who he identify as Fadi in late --

6 THE COURT: Spell that.

7 THE WITNESS: F-a-d-i. In late 2014 or early 2015,  
8 along with another individual who wore a mask whose identity  
9 the defendant did not know but knew him to be a member of ESO.  
10 The defendant stated in that meeting he was questioned at  
11 length regarding his historic contact with any security  
12 services with both the U.S. or Canada.

13 Q. You mentioned the term "handler". What is a handler?

14 A. Based off the defendant's statements to me I understood him  
15 to have a single point of contact, so to speak at ESO. His  
16 handler, his handler would task him with missions. He would  
17 require him training to attend and he would kind of for lack of  
18 a better word, handle all of the defendant's operational  
19 activity on behalf of ESO.

20 Q. Were there any breaks taken during this April 3 meeting?

21 A. There were multiple breaks taken. Most of them casual but  
22 one in particular sticks out toward the end of the meeting.

23 Q. Can you describe that?

24 A. I asked the defendant if he ever served overseas on behalf  
25 of 910 or been tasked with any missions out of U.S. or Lebanon.

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Costello - Direct

1 The defendant stated he had not. At that point Special Agent  
2 Shannon and I reminded the defendant that lying to the FBI is a  
3 crime and recommended that Mr. Denbeaux speak with Mr. Kourani  
4 privately regarding that. Approximately, five minutes later we  
5 were invited back into the room. The defendant stated he had  
6 traveled to China in 2009 but that it was unrelated to his 910  
7 membership. We then re-admonished the defendant on the  
8 importance of not lying to the FBI. At which point the  
9 defendant stood up and left the interview room and was followed  
10 shortly thereafter by Mr. Denbeaux.

11 THE COURT: Remind me again, what's 910.

12 THE WITNESS: It's a terrorist wing of Hezbollah, the  
13 external terrorist wing.

14 Q. You used the terms "ESO" and 910. Are those both  
15 references to the same unit?

16 A. Yes. Forgive me. They are both the same.

17 Q. You said that the defendant and Mr. Denbeaux left the room  
18 again?

19 A. Yes.

20 Q. What happened next?

21 A. They returned approximately five minutes later. They sat  
22 down. Mr. Denbeaux stated based off his conversation with the  
23 defendant he understood that either, A, the defendant didn't  
24 know what we were asking or, B, was too scared to provide the  
25 information. At that point the defendant stated he was scared

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Costello - Direct

1 and did not want to discuss it. We stated that was fine, that  
2 we would be willing to meet at a later date to discuss it and  
3 we ended the meeting.

4 Q. Were you asked any questions at this meeting about immunity  
5 for the defendant?

6 A. No, I was not.

7 Q. Did you make any promise that the defendant would not be  
8 prosecuted?

9 A. No, I did not.

10 Q. Did you make any promise that the defendant's statements  
11 would not be used against him?

12 A. No, I did not.

13 MS. HOULE: That's all I have for this meeting, your  
14 Honor.

15 THE COURT: Anyone need to use the facility?

16 MR. SCHACHT: Yes.

17 THE COURT: It'll be a five minute break.

18 You may step down but don't have any conversations  
19 with anyone.

20 (Recess)

21 THE COURT: All right. Mr. Costello, you remain under  
22 oath.

23 MS. HOULE: Thank you, your Honor.

24 Q. Special agent, turning your attention to April 5, 2017, did  
25 you next meet with the defendant on that date?

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Costello - Direct

1 A. I did.

2 Q. Where did that meeting take place?

3 A. Seton Hall University Law School in the same conference  
4 room we had met previous.

5 Q. Who was present at that the meeting?

6 A. Myself, Special Agent Shannon, the defendant and  
7 Mr. Denbeaux.

8 Q. How did that meeting begin?

9 A. That meeting began with the defendant stating he wanted to  
10 do the right thing as an American and that's why he was  
11 continuing to cooperate with the FBI.

12 THE COURT: Who called the meeting?

13 THE WITNESS: Mutually between myself and  
14 Mr. Denbeaux.15 THE COURT: Did you reach out to him or did he reach  
16 out to you?17 THE WITNESS: I can't remember exactly how the  
18 scheduling went. I think we had stated at the end of the  
19 previous meeting we would like to meet again and then  
20 Mr. Denbeaux called me with dates to meet.

21 THE COURT: Last meeting he just walked out, right?

22 THE WITNESS: The defendant did.

23 THE COURT: Kourani walked out?

24 THE WITNESS: Correct.

25 THE COURT: When was it you said you would like to

13QAAKOU2

Costello - Direct

1 neat again?

2 THE WITNESS: It may have been at the end of the last  
3 meeting.

4 THE COURT: After he got up to walk out.

5 THE WITNESS: Yeah. It may have been just between  
6 myself and Mr. Denbeaux, your Honor. I can't recall exactly.7 THE COURT: Denbeaux called you back and gave you some  
8 dates and the first date was April 5 two days later?

9 THE WITNESS: Yes, your Honor.

10 THE COURT: Go ahead.

11 BY MS. HOULE:

12 Q. Special agent, you were testifying as to what the defendant  
13 said at the start of the meeting?14 A. The defendant stated he was cooperating with the FBI  
15 because he was an American and he wanted to do what was right  
16 as an American and because his children were American citizens  
17 he wanted to do the patriotic thing. I thanked the defendant  
18 for that, stated that was the right thing to do but no matter  
19 the motivations we would not be making any promises, just  
20 reminding him of any benefit for his cooperation, that we would  
21 need to finish speaking with him first to get the totality of  
22 his information.

23 Q. What happened next?

24 THE COURT: I don't understand that sentence. Any  
25 benefit you left hanging?

13QAAKOU2

Costello - Direct

1                 THE WITNESS: Yes, your Honor. The defendant multiple  
2 times would state, I want my kids here or I want my father  
3 here. And I would always remind him that I understand that but  
4 I can't make any promises. I can't make that happen. And so  
5 when he'd stated that he was cooperating as an American I  
6 remind him that I appreciated that but that we could not make  
7 any promises for benefits just because his motivations had  
8 changed.

9                 THE COURT: Did he ask you how you could help?

10                 THE WITNESS: I explained to him how it worked in the  
11 first meeting and the second meeting. It would involve  
12 people at the Department of Justice and other government  
13 agencies and the government of Canada in relation to his  
14 children in Canada. So I think he understood that it was a  
15 large bureaucratic process.

16                 THE COURT: But did he ask you how he could get help  
17 from you when you hear his information find out?

18                 THE WITNESS: He did not. I believe he understood  
19 that I could not directly promise anything.

20                 THE COURT: Without promising do you say a word to  
21 somebody that would help?

22                 THE WITNESS: I explained to the defendant how it  
23 again worked, the process I would run the information of my  
24 chain of command at the FBI. We would liaise with the  
25 appropriate entity, the various government agencies, the U.S.

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Costello - Direct

1 Attorney's Office.

2 THE COURT: Part of the thing that you would be saying  
3 to your superiors was the man wants some help on some  
4 immigration issue?

5 THE WITNESS: Yes, both the totality of the  
6 defendant's statements regarding his involvement with Hezbollah  
7 but also his demands.

8 THE COURT: Is it fair to say that you understood that  
9 one of the motivations for helping you by telling you things  
10 you wanted to know was his help of the Department of Justice?

11 THE WITNESS: Yes, that is fair, your Honor, but I  
12 explained to him on multiple occasions that we would need the  
13 whole and complete truth regarding his involvement with  
14 Hezbollah and not just a little bit but that we need  
15 everything.

16 THE COURT: And he then hoped at least as far as your  
17 understanding goes that if he did that he would get the help of  
18 the Department of Justice in advocating for his immigration  
19 issues?

20 THE WITNESS: Yes. It's difficult but, yes, it's  
21 difficult for me to opine with he felt --

22 THE COURT: I'm asking what is your understanding.

23 THE WITNESS: My understanding was based off my  
24 statements to him. He understood if he provided the whole and  
25 complete truth regarding his involvement with Hezbollah that we

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Costello - Direct

1 would attempt to interview or -- excuse me -- do what we could  
2 with the powers that be on his behalf.

3 THE COURT: Go ahead.

4 Q. When you say "Department of justice" what discussion was  
5 there with the defendant about the Department of Justice?

6 THE COURT: Couldn't hear.

7 Q. What discussion was there with the defendant about the  
8 Department of Justice?

9 A. On the April the 3rd interview of the defendant I explained  
10 to him as I was stating that it was a process to make things  
11 happen. It wasn't just Special Agent Costello in my purview to  
12 make things happen and that the first people we would discuss  
13 his cooperation with would be the Department of Justice,  
14 meaning the U.S. Attorney's Office.

15 Q. When you say that the Department of Justice would discuss  
16 what he was asking for, did that relate in any way to immunity?

17 A. I'm sure I follow the question. I mean, yes, because the  
18 defendant had admitted to multiple what I assessed to be  
19 illegal activity.

20 Q. Let me make that clear. When you say that he was seeking  
21 help from the Department of Justice, did that relate  
22 specifically to immunity? Did he ever request immunity?

23 THE COURT: Are you objecting to that question,  
24 Mr. Schact?

25 MR. SCHACHT: Yes, your Honor.

I3QAAKOU2

Costello - Direct

1                   THE COURT: Sustained.

2 Q. You said that there was discussion about how the Department  
3 of Justice could help the development?

4                   THE COURT: -- the rest of it is argument unless you  
5 have more conversation.

6 Q. What were the types of benefits that were discussed that  
7 the Department of Justice could assist in providing?

8                   THE COURT: Who discussed with whom?

9 Q. That you discussed with the defendant?

10 A. Immigration benefits nothing specific to the Department of  
11 Justice but at no time did immunity come up.

12                  THE COURT: That was not the question. Do you know  
13 the question?

14                  THE WITNESS: Yes, your Honor.

15                  THE COURT: Answer it.

16                  THE WITNESS: I explained to the defendant in the  
17 first interview that we would have to work with multiple of  
18 government agencies to make his request happen should that be  
19 deemed a decision we would make.

20 Q. What was the request?

21 A. For example, his father and his sister in Lebanon that he I  
22 explained to the defendant at that time it involved the U.S.  
23 Department of State, the embassy in Lebanon getting them visas,  
24 U.S. Department of Homeland Security signing off on, based on  
25 my understanding of the process and then Citizenship and

I3QAAKOU2

Costello - Direct

1 Immigration Services in the U.S. to get them here.

2 MS. HOULE: OK.

3 THE COURT: How did you say that the Department of  
4 Justice might be able to help?

5 THE WITNESS: I didn't say "help", your Honor. I  
6 apologize if I was misleading. In the second interview when I  
7 explained to the defendant how the process would work --

8 THE COURT: You tell him about the process, who has  
9 got to be involved and the difficulties and so on, but in the  
10 end he wanted help, right?

11 THE WITNESS: Correct.

12 THE COURT: He wanted help from you?

13 THE WITNESS: Correct.

14 THE COURT: He wanted help from your superiors?

15 THE WITNESS: Correct.

16 THE COURT: What did you say about that?

17 THE WITNESS: I explained to him that we needed the  
18 whole and complete truth regarding his involvement in Hezbollah  
19 and I would relay it to my superiors and other entities within  
20 the government and those would be the people making the  
21 decision.

22 THE COURT: Along with the request that they'd help  
23 him?

24 THE WITNESS: Yeah, I relayed the totality of the  
25 information, your Honor.

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Costello - Direct

1                 THE COURT: At the end of the day if you got what you  
2 wanted you were ready and you told him you were ready to try to  
3 help him?

4                 THE WITNESS: If we got the totality of information,  
5 yes, your Honor.

6                 THE COURT: You would help him by asking your  
7 superiors to put in a good word with those other agencies so  
8 that what he wanted might come to pass?

9                 THE WITNESS: Yes, your Honor.

10 Q. What happened next during the meeting?

11 A. During the meeting -- or excuse me -- at the beginning of  
12 the meeting after we had that discussion, the defendant asked  
13 to conduct the meeting alone with Special Agent Shannon.

14 Q. Did you have any concerns about that request?

15 A. I did.

16 Q. What were your concerns?

17 A. At that time Special Agent Shannon was eight months  
18 pregnant and given that the defendant had previously admitted  
19 to being trained in weapons -- I did not feel comfortable  
20 leaving her alone with the defendant in the room. Off that I  
21 asked for a break to discuss it with Special Agent Shannon.

22 Q. What happened next.

23 A. We agreed she would conduct the interview alone but that  
24 she would sit closer to the door and then I would stand by the  
25 door outside with a view into the room through some plateglass.

I3QAAKOU2

Costello - Direct

1 Q. Were there any other security measures in place?

2 A. Yes. I asked Special Agent Shannon if she had her weapon  
3 on her and it was loaded and she said she did.

4 Q. So you left the room, right?

5 A. I did.

6 Q. Did Mr. Denbeaux remain in the room?

7 A. He left with me.

8 Q. For approximately how long were you and Mr. Denbeaux  
9 outside the room?

10 A. Approximately two hours.

11 THE COURT: This is April 5?

12 THE WITNESS: Yes, your Honor.

13 Q. During the time that you were outside the room with  
14 Mr. Denbeaux, did you have any discussions relating to the  
15 defendant?

16 A. Nothing substantive.

17 Q. Was there any discussion of immunity for the defendant?

18 A. No, there was not.

19 Q. Did you eventually reenter the room where the defendant was  
20 speaking with Special Agent Shannon?

21 A. I did.

22 Q. What happened next?

23 A. I believe Mr. Denbeaux asked how did we do or where we're  
24 at. Before Special Agent Shannon could answer, I reminded Mr.  
25 Denbeaux that no the matter information Mr. Kourani provided we

I3QAAKOU2

Costello - Direct

1 would still have to relay it to our superiors and we would not  
2 be making any promises on behalf of the U.S. government.

3 Q. What, if anything, was said about meeting with the  
4 defendant again?

5 A. I asked, I stated to Mr. Denbeaux that we would be willing  
6 to meet with the defendant again and would like to, to which  
7 they said they would as well.

8 Q. During the course of this meeting was there this any  
9 discussion regarding immunity for the defendant?

10 A. No, there was not.

11 Q. Did you make any promises that the defendant's statements  
12 would not be used against him?

13 A. No, I did not.

14 Q. Turning your attention to April 12, 2017, did you meet with  
15 Mr. Denbeaux that day?

16 A. I did.

17 Q. Where was that?

18 A. Seton Hall University Law School.

19 Q. Who else was there?

20 A. Just myself and Special Agent Shannon.

21 Q. Was the defendant present?

22 A. No.

23 Q. Why not?

24 A. I believe either the defendant or Mr. Denbeaux had mixed up  
25 the date.

I3QAAKOU2

Costello - Direct

1 Q. Did you set a new time to meet?

2 THE COURT: Who mixed up the date? You mean that  
3 Denbeaux and Kourani mixed up the dates so Kourani was not at  
4 the April 12 meeting?

5 THE WITNESS: Correct, your Honor.

6 Q. Did you set a new time to meet?

7 A. We did.

8 Q. Was there any discussion with Mr. Denbeaux regarding  
9 immunity for the defendant?

10 A. No, there was not.

11 Q. Did you make any promise that the defendant's statements  
12 would not be used against him?

13 A. No, I did not.

14 Q. Turning your attention to April 14, 2017, did you meet with  
15 the defendant that day?

16 THE COURT: April 12 was a nonmeeting. Nothing  
17 happen.

18 THE WITNESS: Yes, your Honor.

19 THE COURT: It was rescheduled April 14.

20 THE WITNESS: Yes, your Honor.

21 Q. Where did the April 14 meeting take place?

22 A. Seton Hall University Law School.

23 Q. Was it in the same conference room?

24 A. Yes, it was.

25 Q. Who was present.

13QAAKOU2

Costello - Direct

1 A. Myself, Special Agent Shannon, the defendant and  
2 Mr. Denbeaux.

3 Q. How did this meeting begin?

4 A. The meeting began with the defendant stating that if he  
5 were to cooperate with the U.S. government he'd like a doorman  
6 building and as I had previously said before to the defendant  
7 I'd restated, that's great but you can want anything in the  
8 world but I can't make my promises. It's more important that  
9 we get the whole and complete truth regarding his involvement  
10 in Hezbollah before we discuss anything else about benefits.

11 Q. Did the defendant make any requests in connection with his  
12 wife's family?

13 A. Yes, he did. The defendant felt based off of the  
14 altercation that occurred in Lebanon that year before and I  
15 think some subsequent disagreements with his wife and her  
16 family regarding childcare and child custody, that he could  
17 utilize the FBI to take revenge were the words he used or take  
18 vengeance on his wife's family. The defendant stated something  
19 about no flying members of her family, getting them on the  
20 no-fly list, extraditing I believe his wife's brother-in-law  
21 and getting restraining orders.

22 Q. Were there any breaks taken during this meeting?

23 A. There were multiple but one particular break towards the  
24 end of the meeting does stand out.

25 Q. Can you describe the circumstance?

I3QAAKOU2

Costello - Direct

1 A. Towards the end of the meeting I asked the defendant to  
2 identify other 910 ESO operatives that he knew to be  
3 operational. The defendant stated he wasn't comfortable  
4 providing that information and then I believe took a break and  
5 left. Mr. Denbeaux followed him out and then Mr. Denbeaux  
6 returned and said the defendant was leaving for the day. Given  
7 that we have come all that way I stated to Mr. Denbeaux that we  
8 were willing to put that question aside to continue the  
9 interview if Mr. Kourani wants to return.

10 Q. What happened next?

11 A. Mr. Denbeaux called Mr. Kourani, explained our position and  
12 Mr. Kourani returned.

13 Q. Did you continue the meeting?

14 A. We did.

15 Q. Did you keep with your representation that you wouldn't ask  
16 questions again about having the defendant name other 910  
17 operatives?

18 A. In that meeting, yes.

19 Q. Was there any discussion during this meeting of immunity  
20 for this defendant?

21 A. No, there was not.

22 Q. Did make any promise that the defendant's statements would  
23 not be used against him?

24 A. No, I did not.

25 Q. Following this meeting what was that your assessment --

I3QAAKOU2

Costello - Direct

1 A. Felt the defendant had provided some truthful and useful  
2 information regarding his involvement with Hezbollah but no  
3 where near the entirety of the information. But given that he  
4 was still unwilling to identify the other 910 operatives that  
5 we still had to --

6 Q. Did you convey that?

7 A. I did.

8 Q. What did you say?

9 A. I believe I used the phrase we've broken down some walls  
10 but we still have a way to go.

11 Q. Turning your attention to April 19, 2017, did you speak with  
12 Mr. Denbeaux by phone that day?

13 A. I did.

14 Q. Who was on the phone call?

15 A. Just and an Mr. Denbeaux.

16 Q. What was discussed on the call?

17 A. Mr. Denbeaux stated that he had had a long conversation  
18 with the defendant and that they both felt it was to  
19 defendant's best interests to continue meeting with the FBI.

20 Q. What, if anything, did you say in response?

21 A. I stated we would be willing to meet again.

22 Q. Was there any discussion of immunity on this call?

23 A. No, there was not.

24 Q. Did you make any promise that the defendant's statements  
25 would not be used against him?

13QAAKOU2

Costello - Direct

1 A. No, I did not.

2 Q. Turning your attention to April 25, 2017, did you again  
3 speak by phone with Mr. Denbeaux that day?

4 A. I did.

5 Q. Was anyone else on that call?

6 A. Just myself and Mr. Denbeaux.

7 Q. What was your said on the call?

8 A. Mr. Denbeaux stated he had a conversation with the  
9 defendant regarding our scheduled upcoming meeting and that he  
10 was hopeful the defendant would have a big day.

11 (Continued on next page)

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I3qrkou3

Costello - direct

1 Q. What did you understand Mr. Denbeaux to mean by "a big  
2 day"?

3 A. I believe Mr. Denbeaux meant that the defendant was going  
4 to be providing a lot of very good new information regarding  
5 his involvement with Hezbollah.

6 Q. Was there any discussion on this call about immunity for  
7 the defendant?

8 A. No, there was not.

9 Q. Did you make any promise that the defendant's statements  
10 would not be used against him?

11 A. No, I did not.

12 Q. Turning your attention to the following day, April 26,  
13 2017, did you meet with the defendant that day?

14 A. I did.

15 Q. Where did that meeting take place?

16 A. Seton Hall University Law School.

17 Q. Who was present?

18 A. Myself, Special Agent Shannon, the defendant, and Mr.  
19 Denbeaux.

20 Q. Did the meeting take place in the same conference room?

21 A. It did.

22 Q. You testified that prior to this meeting you had a call  
23 with Mr. Denbeaux where he indicated he believed this would be  
24 a big day. How did the meeting begin?

25 A. The meeting began -- if I look at my notes I could probably

I3qrkou3

Costello - direct

1 better recall. I can't recall offhand.

2 Q. During the course of this meeting, did the defendant  
3 correct any prior statements that he had made to the FBI?

4 A. Yes. The defendant had stated in that meeting that he had  
5 previously lied to the FBI in his first meeting with us on  
6 March 23rd. The defendant stated he was actually recruited  
7 into the Hezbollah's ESO in 2008, not 2010. The defendant  
8 stated he had omitted that from us because he did not want us  
9 to know that he had been a member of unit 910 in Hezbollah  
10 previous to his achieving his U.S. citizenship and that he was  
11 tasked to retain his U.S. citizenship by ESO, Hezbollah.

12 Q. At the end of the meeting, what was your assessment of the  
13 defendant's attempt at cooperation?

14 A. I thought the defendant had provided a few pertinent new  
15 facts but by no means had a big day or provided anything  
16 anywhere near the totality of his information regarding his  
17 involvement with Hezbollah.

18 Q. Were there any breaks taken during this meeting?

19 A. Yes. Towards the end of the meeting, myself and Special  
20 Agent Shannon took a break. We contacted the U.S. Attorney's  
21 office and stated that we were going to be ending a meeting  
22 based on our assessment of Mr. Kourani's statements.

23 Q. Why did you call a representative from the U.S. Attorney's  
24 office?

25 A. I felt at that point it was good to notify them that we

I3qrkou3

Costello - direct

1 were going to be ending the interview, that we felt that Mr.  
2 Kourani was no longer being completely forthcoming, that he was  
3 still unwilling to answer some significant questions regarding  
4 his involvement with Hezbollah.

5 Q. Following that call, did you return to the meeting room?

6 A. We did.

7 Q. What, if anything, did you say?

8 A. We thanked the defendant for his time and I stated to both  
9 him and Mr. Denbeaux that I'd be in touch.

10 Q. Was there any discussion at this meeting regarding immunity  
11 for the defendant?

12 A. No, there was not.

13 Q. Did you make any promise that the defendant's statements  
14 would not be used against him?

15 A. No, I did not.

16 Q. Was there any discussion on April 26th of an individual  
17 name Moustafa Kourani?

18 A. Yes, there was.

19 Q. Who is Moustafa Kourani?

20 A. The defendant's brother.

21 Q. Turning your attention to what has been marked for  
22 identification as Government Exhibit 103, what is this?

23 A. It's an email company I received from a U.S. Immigration  
24 and Customs Enforcement attorney handling Moustafa.

25 MS. HOULE: The government moves Government Exhibit

I3qrkou3

Costello - direct

103.

2 MR. SCHACHT: No objection.

3 THE COURT: Received.

4 (Government's Exhibit 103 received in evidence)

5 Q. If we could start, Mr. Costello, with the second page of  
6 this email. It appears that this email was sent on April 26,  
7 2017. It is from Adam Panopoulos. Who was that?8 A. The immigration attorney with Immigration and Customs  
9 Enforcement.10 Q. It is sent to someone named Gregory King, yourself, and  
11 someone is cc'd named Lovito Lukose. Who are those people?12 A. Gregory King is a special agent on my squad. And Lovito  
13 Lukose is an attorney with the U.S. Department of Justice.14 Q. Why were you all corresponding about Moustafa Kourani's  
15 immigration hearing?16 A. Moustafa Kourani was the subject of an FBI investigation,  
17 was so at that time, separate from his brother.18 Q. Mr. Panopoulos reminds you that there is a status hearing  
19 that will take place tomorrow at 9:30 on the 12th floor of 26  
20 Federal Plaza. He indicates that it is likely there will be a  
21 ruling on removability. He indicates in the third line it's  
22 very likely that the IJ will set this out to another status  
23 hearing for an update on relief. The final line in that first  
24 paragraph he says, "Based on our last meeting, it looks like  
25 buying time is a solid approach at this point, so I won't

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Costello - direct

1 object to a reasonable adjournment for the filing of relief.

2 Q. What was he referring to based on our last meeting?

3 A. Myself, some other members from my squad had met with Mr.  
4 Panopoulos in March regarding Moustafa Kourani and our investi-  
5 gation of him.

6 Q. What was your understanding of "looks like buying time is a  
7 solid approach"?

8 A. We had stated in March when we met --

9 THE COURT: Who is "we"?

10 THE WITNESS: Myself and other members of the FBI.

11 A. I had stated, your Honor, that we had a lot going on in  
12 terms of the Moustafa Kourani investigation and other linked  
13 investigations and that we would like to keep all our options  
14 on the table regarding Moustafa Kourani if possible.

15 Q. You said you referenced other investigations. Did you  
16 specifically indicate to Mr. Panopoulos during that meeting or  
17 at any other time that you were investigated Ali Kourani?

18 MR. SCHACHT: Objection.

19 THE COURT: Overruled.

20 A. No, I did not.

21 Q. Turning to the first page of the email, it looks like you  
22 replied to Mr. Panopoulos on Wednesday April 26th at 4:35 p.m.  
23 You write, "Sorry for the late reply. Currently handling  
24 something. Agreed buying time would 100 percent serve our  
25 purposes as it stands with the investigation right now. If

I3qrkou3

Costello - direct

1 possible, I will touch base after the hearing."

2 What did you mean when you said that "buying time 100  
3 percent serves our purposes as it stands with the  
4 investigation"?

5 A. As I previously stated to Mr. Panopoulos at our meeting a  
6 month prior, we had a lot of ongoing equities and that we would  
7 like to keep all the options on the table regarding Moustafa  
8 Kourani.

9 Q. How did any investigation stand to benefit by the delay in  
10 Mr. Moustafa Kourani's immigration hearing?

11 A. Given that we were in active talks with his brother, I  
12 didn't want Moustafa Kourani to get deported or anything to  
13 send kind of the wrong message. I wanted to keep all the  
14 options on the table.

15 Q. Where were you when you sent this email?

16 A. Seton Hall University Law School, to the best of my  
17 recollection.

18 Q. Do you remember if you had any discussions with the  
19 defendant about Moustafa Kourani's immigration hearing around  
20 the time that you were corresponding with Mr. Panopoulos?

21 A. I did.

22 Q. Can you describe those discussions.

23 A. I looked at my phone at one point or the other and saw the  
24 email from that morning stating that Mr. Kourani -- that it was  
25 my understanding that his brother would like to get a deferment

I3qrkou3

Costello - direct

1 in his immigration hearing.

2 Q. Did the defendant say anything in response?

3 A. Thanked me.

4 Q. What did you understand him to be thanking you for?

5 A. Giving him the heads-up that his brother was going to have  
6 a deferment.

7 Q. Did the defendant ever make any request to you in  
8 connection with his brother's immigration proceedings?

9 A. No, he did not.

10 Q. Turning your attention to May 1, 2017, did you speak again  
11 with Mr. Denbeaux that day?

12 A. I did.

13 Q. Was that by phone?

14 A. Yes, it was.

15 Q. Was anyone else on the call?

16 A. Just myself and Mr. Denbeaux.

17 Q. What was said during that call?

18 A. Mr. Denbeaux called me to inquire as to the status of Mr.  
19 Kourani's case. I stated we were still analyzing some of his  
20 statements and that we would be in touch.

21 Q. Did Mr. Denbeaux respond?

22 A. He was kind of unhappy with that. I believe he said it was  
23 a bureaucratic answer and abruptly hung up the phone.

24 Q. Was there any discussion of immunity for the defendant  
25 on this call?

I3qrkou3

Costello - direct

1 A. No, there was not.

2 Q. Turning your attention to May 3, 2017, did you receive text  
3 messages from Mr. Denbeaux on that date?

4 A. I did.

5 Q. Turning your attention to what's been marked for identi-  
6 fication as Government Exhibit 302, what is this a picture of?

7 A. It's a picture of a text message I received from Mr.

8 Denbeaux that was sent to both myself and a number I know to be  
9 Ali Kourani's.

10 Q. Did you take that picture?

11 A. I did.

12 MS. HOULE: The government offers Government Exhibit  
13 302.

14 MR. SCHACHT: No objection.

15 THE COURT: Received.

16 (Government's Exhibit 302 received in evidence)

17 Q. Who is the sender of this message?

18 A. Mr. Denbeaux.

19 Q. Can you please read the message aloud.

20 A. Sure.

21 THE COURT: It's in the record. No need to read it  
22 aloud.

23 Q. It says here that there are three points Mr. Denbeaux  
24 raises which he says were true at the conclusion of the last  
25 meeting. The third point is that "You and I will talk about

I3qrkou3

Costello - direct

1 the government's plans to provide the assistance agreed upon."

2 What did you understand Mr. Denbeaux to be referring to?

3 A. I didn't know at that time and I still don't. No agreement  
4 was ever made between myself, the defendant, or Mr. Denbeaux  
5 regarding any government assistance.

6 Q. Mr. Denbeaux then writes in the second full paragraph, "My  
7 client had given you nothing that you did not already know and  
8 you had nothing for his assistance." What did you understand  
9 him to be referring to there?

10 A. I think he is paraphrasing what I stated at the conclusion  
11 of the fifth interview. I stated that Mr. Kourani had provided  
12 us some new information but not the totality of his involvement  
13 with Hezbollah.

14 Q. The next line says, "That means his children who are  
15 American citizens remain in danger along with his other family  
16 members."

17 MS. HOULE: If you could turn to the second page, Mr.  
18 DeLuca, so we could look the whole message there. Focus in  
19 on that line, "That means his children."

20 Q. He says, "That means his children who were American  
21 citizens remain in danger along with his other family members  
22 and he has been abandoned after days of voluntary cooperation  
23 with his government." What did you understand Mr. Denbeaux to  
24 be referencing there?

25 A. Mr. Kourani had previously stated to me that he felt his

I3qrkou3

Costello - direct

1 mother-in-law was a drug addict and that a member of his wife's  
2 family was a possible pedophile, and that as such the fact that  
3 his children were in the custody of his wife and her family in  
4 Canada, that they were at risk.

5 Q. What, if anything, did you do in response to this message?

6 A. Because I disagreed with so much of it, I called Mr.  
7 Denbeaux.

8 Q. What did you say on the call?

9 A. I explained to Mr. Denbeaux that I disagreed with what he  
10 said and that it would be difficult to discuss any sort of  
11 benefits given that Mr. Kourani had admitted to being a member  
12 of a designated foreign terrorist organization and that he had  
13 conducted multiple operational acts in the U.S.

14 Q. What, if anything, did Mr. Denbeaux state in response?

15 A. Mr. Denbeaux stated he would go to the media.

16 Q. What did you say in response?

17 A. I said that was fine, and then Mr. Denbeaux hung up the  
18 phone.

19 THE COURT: Is this a good time to break for lunch?

20 MS. HOULE: Thank you, your Honor.

21 THE COURT: Yes?

22 MS. HOULE: Yes.

23 THE COURT: We will break until 2:15. How much more  
24 do you have with this witness?

25 MS. HOULE: 30 minutes at the most, your Honor.

13qrkou3

Costello - direct

1           THE COURT: Is it equal time with the second witness?

2           MS. HOULE: Less time, your Honor. Probably about 45  
3 minutes on direct.

4           THE COURT: Mr. Schacht, will you tell me what time  
5 your case is going to take in terms of time.

6           MR. SCHACHT: Mr. Denbeaux is here. I predict my  
7 direct examination of him would be probably about 30 minutes.  
8 My cross-examination of the government witnesses will be, I  
9 predict, shorter than the direct.

10          THE COURT: Thank you. Have a good lunch. Don't  
11 discuss the testimony over lunch.

12          (Luncheon recess)

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Costello - direct

AFTERNOON SESSION

2:15 p.m.

JOSEPH COSTELLO, resumed.

THE COURT: Mr. Costello, you remain under oath.

DIRECT EXAMINATION (continued)

BY MS. HOULE:

Q. Special Agent Costello, drawing your attention to May 17, 2017, did you speak with Mr. Denbeaux by phone that day?

A. I did.

Q. Was anyone else on the call?

A. Just myself and Mr. Denbeaux.

Q. What was said on the call?

A. Mr. Denbeaux stated he had spoken with the defendant and that the defendant stated he was looking to travel back to Lebanon and felt that the best chance to get custody of his children was in Lebanon.

Q. What, if anything, did you say in response?

A. I stated to Mr. Denbeaux that is certainly his right, I can't really comment on the status of the custody of his children between him and his wife. Mr. Denbeaux then asked me if it was safe for Mr. Kourani in Lebanon. I said based off Mr. Kourani's previous statements regarding the alteration with the Hezbollah militia, I can't give an official answer, I don't know, but he should ask Mr. Kourani.

THE COURT: How would he think you know what happened

I3qrkou3

Costello - direct

1 in Lebanon?

2 THE WITNESS: I'm not sure, your Honor.

3 THE COURT: You have no special pipeline to the  
4 situation in Lebanon?

5 THE WITNESS: No, your Honor, I don't.

6 THE COURT: Did you think that question was strange?

7 THE WITNESS: I did a little bit, your Honor. But to  
8 be frank, Mr. Denbeaux and I had discussed Hezbollah and unit  
9 910. Maybe Mr. Denbeaux thought because I knew so much about  
10 910 that I knew about the security situation in Lebanon, which  
11 obviously I did not.

12 Q. Did you have any concerns about the defendant potentially  
13 returning to Lebanon?

14 A. I did.

15 Q. What concerns?

16 A. Based off the comments on the conduct that the defendant  
17 had taken part in in his time in the U.S. on behalf of unit  
18 910, more specifically his surveillance and operations within  
19 the U.S. airports, I didn't want the defendant anywhere near a  
20 United States airport or air carrier. Further, given that the  
21 case was starting to progress, I didn't want the defendant  
22 leaving the country. I didn't want him speaking to members of  
23 Hezbollah about myself, Special Agent Shannon, the questions we  
24 asked him, the information he had provided us.

25 Q. What, if anything, did you do with the information that Mr.

I3qrkou3

Costello - direct

1 Denbeaux provided about the defendant's potential travel to  
2 Lebanon?

3 A. I related both to my superiors at the FBI and the U.S.  
4 Attorney's office.

5 THE COURT: Who were you dealing with at the U.S.  
6 Attorney's office?

7 THE WITNESS: At that time, your Honor?

8 THE COURT: Yes.

9 THE WITNESS: Assistant United States Attorney Bove  
10 and Assistant United States Attorney Amanda Houle.

11 Q. Turning your attention to May 26, 2017, did you speak with  
12 Mr. Denbeaux by phone again that day?

13 A. I did.

14 Q. Was anyone else on the call?

15 A. No, just myself and Mr. Denbeaux.

16 Q. What was said on that call?

17 A. Mr. Denbeaux stated he had had another conversation with  
18 the defendant and that the defendant was going to relocate to  
19 the Midwest, the U.S., where he had previously worked. Mr.  
20 Denbeaux also relayed that Mr. Kourani told him that he  
21 understood him to be no-fly, that he could not board a U.S. air  
22 carrier. Mr. Denbeaux -- that was it.

23 Q. What, if any, concerns did you have about the defendant  
24 traveling to the Midwest?

25 A. Similar to him traveling to Lebanon, given some of the

I3qrkou3

Costello - direct

1 comments on the conduct he had taken on behalf of ESO, I didn't  
2 want him traveling anywhere. I was concerned about notifying  
3 the appropriate FBI division should he travel. Finally, I  
4 didn't want him trying to fly or anything like that.

5 Q. What, if anything, did you do with the information from Mr.  
6 Denbeaux about the defendant potentially traveling to the  
7 Midwest?

8 A. Again, I relayed it to my superiors at the FBI and also the  
9 U.S. Attorney's office.

10 Q. Did there come a time in this case when the defendant was  
11 arrested?

12 A. Yes.

13 Q. When was that?

14 A. June 1, 2017.

15 Q. Between that May 26 call with Mr. Denbeaux that you just  
16 described and the defendant's arrest, did you have any  
17 communications with Mr. Denbeaux?

18 A. No, I did not.

19 Q. Did you have any communications with the defendant?

20 A. No, I did not.

21 Q. Did you participate in creating a plan for the defendant's  
22 arrest?

23 A. I did.

24 Q. What generally was the plan?

25 A. The plan in broad strokes was to arrest Mr. Kourani as

I3qrkou3

Costello - direct

quietly as possible. We wanted to preserve Mr. Kourani cooperating with us without anyone knowing. So we had drawn up a plan to, again, arrest him very quietly without making a big splash so to speak.

Q. When you say you wanted to preserve and cooperate, what do you mean?

A. A lot of the value of his cooperation with the FBI is tied up with individuals in Hezbollah and the Lebanese community not knowing that he is cooperating with the FBI.

Q. At that point did you know whether the defendant would continue to cooperate?

A. I did not.

Q. Did you participate in the arrest of the defendant?

A. I did not.

Q. Did you speak with the agents who did?

A. I did.

Q. Based on your discussions with those agents, what is your understanding about whether the arrest followed the plan?

A. It followed the plan to a tee.

Q. Once the defendant was arrested, where was he brought?

A. He was brought down to 26 Federal Plaza, the FBI's New York field office, for processing.

Q. Were you there?

A. I was.

Q. What happened next?

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Costello - direct

1 A. I provided the defendant a telephone. He contacted a  
2 lawyer, I believe Mr. Denbeaux. He told me he was going to  
3 call Mark. I left the room. The defendant then finished the  
4 call. I guess he yelled so I could hear him. I returned to  
5 the room. He stated he wanted to cooperate and he needed a  
6 criminal defense lawyer.

7 Q. Was he put in contact with a new criminal defense lawyer?

8 A. Yes. He was put in contact with the public defenders  
9 office.

10 Q. Did you meet with a public defender?

11 A. He would.

12 Q. Following his meeting with the public defender, was the  
13 defendant brought to court that day?

14 A. No, he was not.

15 Q. Why not?

16 A. Again, in keeping with the idea of keeping his cooperation  
17 quiet from the Lebanese community, the defendant agreed,  
18 because he wanted to cooperate, to waive his initial appearance  
19 that day.

20 Q. Did you meet with the defendant and his attorney that day?

21 A. I did.

22 Q. Were myself and AUSA Bove present for those meeting?

23 A. Yes.

24 Q. Where was the defendant housed that night?

25 A. We housed the defendant that night at the downtown Marriott

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Costello - direct

1       in TriBeCa.

2       Q.   Was he kept in custody there by the FBI?

3       A.   He was.

4       Q.   Why was he housed there?

5       A.   Again, in keeping with the arrest plan, subsequent arrest,  
6       and him waiving his initial appearance, we thought keeping him  
7       there in custody versus in a prison would help preserve the  
8       possibility of cooperation.

9       Q.   Did you meet with the defendant and his attorney the  
10      following day?

11      A.   Yes, I did.

12      Q.   Where was that meeting held?

13      A.   Here in the Southern District.

14      Q.   Were there representatives from the U.S. Attorneys present  
15      as well at that meeting?

16      A.   Yes, they were.

17      Q.   At the conclusion of that meeting, what was your assessment  
18      of the defendant's potential cooperation?

19      A.   I felt the defendant had still not been completely forth-  
20      coming regarding his involvement with Hezbollah.

21      Q.   Did the defendant appear in court later that day?

22      A.   He did.

23      Q.   Was the complaint unsealed that day?

24      A.   It was.

25      Q.   In connection with this investigation, has the FBI executed

I3qrkou3

Costello - direct

1 search warrants?

2 A. Yes.

3 Q. Did the FBI execute a search warrant on an email account  
4 with the name ali.m.kourani@gmail.com?

5 A. Yes.

6 Q. Based on your investigation, is that an email account  
7 associated with the defendant?

8 A. Yes.

9 Q. Have you reviewed the return of that search warrant?

10 A. I have.

11 Q. In preparation for your testimony today, have you assisted  
12 the U.S. Attorney's office in pulling extracts from that email  
13 account?

14 A. I have.

15 Q. If you could look in your binder there for what has been  
16 marked for identification as Government Exhibits 201 through  
17 229.

18 A. Yes.

19 Q. Are these emails that were seized by the FBI pursuant to  
20 that search warrant?

21 A. Yes, they are.

22 MS. HOULE: Your Honor, the government offers Exhibits  
23 201 to 229 into evidence.

24 THE COURT: That's 28 exhibits.

25 MS. HOULE: Yes, your Honor.

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Costello - direct

1           THE COURT: 29.

2           MS. HOULE: 29 exhibits.

3           THE COURT: Will he be questioned on all of them?

4           MS. HOULE: This ones he will not, your Honor. We are  
5 putting them into evidence now so the defendant can be cross-  
6 examined using those emails.

7           MR. SCHACHT: Judge, I'm not disputing the authen-  
8 ticity of those emails. But I would like them to be gone  
9 through one by one. I don't want them introduced unless a live  
10 witness is going to be asked about them. But if my client  
11 testifies, I would consent to them going into evidence to  
12 cross-examine him about them.

13          MS. HOULE: Your Honor, if the defendant is not  
14 testifying, the government would still seek to rely on these  
15 exhibits.

16          THE COURT: Put them in one by one. Otherwise, I  
17 don't have any sense of them and what their importance or  
18 unimportance is.

19          MS. HOULE: Your Honor, we will proceed with offering  
20 them into evidence now and we can address them if the defendant  
21 testifies. If he does not, we may seek separately to put them  
22 into evidence.

23          THE COURT: Okay.

24          MS. HOULE: Your Honor, Government Exhibits 801  
25 through 806 is a series of text messages. We will plan to

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Costello - direct

1 proceed in the same format. Assuming the defendant testifies,  
2 we will offer them into evidence then. But now we will lay the  
3 foundation.

4 THE COURT: Why?

5 MS. HOULE: Your Honor, I believe it is important to  
6 establish where the text messages were from, where it was found  
7 and how they were associated with the defendant.

8 THE COURT: You are going to use them?

9 MS. HOULE: In cross-examining the defendant.

10 THE COURT: Your cross-examination of the defendant?

11 MS. HOULE: Of the defendant.

12 THE COURT: Simply use the document then.

13 MS. HOULE: Perhaps, your Honor, the defense could  
14 stipulate now to the authenticity of those exhibits and that  
15 they were seized from a cell phone found in the defendant's  
16 residence.

17 MR. SCHACHT: I'll do better. I will stipulate that  
18 they are exchanges that my client had.

19 THE COURT: There you go.

20 MS. HOULE: Thank you, your Honor.

21 THE COURT: Pace Judge Weinfeld: nothing goes into  
22 evidence unless the judge understands it when it's put in.

23 MS. HOULE: Understood, your Honor.

24 BY MS. HOULE:

25 Q. Special Agent, based on your review of FBI records in this

I3qrkou3

Costello - direct

1 case, was a search warrant executed at a location in the Bronx,  
2 New York, on June 1, 2017?

3 A. Yes.

4 Q. Was that a residence?

5 A. Yes.

6 Q. Who lived there?

7 A. The defendant, his brother, and one or two other  
8 individuals.

9 Q. Did FBI agents collect and voucher evidence pursuant to a  
10 search of that apartment?

11 A. We did.

12 Q. Have you retrieved any evidence from the FBI's evidence  
13 vault that was vouchered as part of that search?

14 A. I have.

15 Q. Showing you what have been marked for identification as  
16 Government Exhibits 401 and 402. Turning first to 401, what is  
17 this document?

18 A. That document appears to me to be notes the defendant took  
19 that were seized from the residence. They also are consistent  
20 with pieces of paper the defendant had on him during our  
21 interviews of him at Seton Hall University Law School.  
22 Moreover, some of the statements written in the notes are  
23 consistent with some of the things the defendant said to me in  
24 our interviews.

25 Q. To be clear, based on your review of FBI records, this

I3qrkou3

Costello - direct

1 document was seized from the defendant's residence in the  
2 search on June 1st, right?

3 A. Correct.

4 Q. I believe what you just said is that it looks consistent  
5 with pieces of paper that you observed the defendant with  
6 during the course of your meetings with him?

7 A. Correct.

8 MR. SCHACHT: Judge, I will stipulate these are my  
9 client's notes.

10 THE COURT: All right.

11 MS. HOULE: Your Honor, we offer Government Exhibit.  
12 401 and 402 into evidence.

13 THE COURT: What on 401 do you want me to pay  
14 attention to?

15 MS. HOULE: I'm going to be asking this witness, your  
16 Honor, about certain lines on this exhibit.

17 THE COURT: And 402 is already in evidence.

18 MS. HOULE: The first page of 402 is, your Honor, as  
19 it was an attachment to the defense's motion. The second page,  
20 there are handwritten notes which are the defendant's notes.

21 THE COURT: 401 and 402 are admitted.

22 (Government's Exhibits 401 and 402 received in  
23 evidence)

24 Q. Special Agent, in preparing to testify today, have you  
25 reviewed the handwritten notes on Government Exhibit 401?

I3qrkou3

Costello - direct

1 A. I have.

2 Q. I'm going to ask you about a few lines.

3 MS. HOULE: Mr. DeLuca, if you could highlight on the  
4 right-hand side of the page, you are just above it now. Thank  
5 you.

6 Q. Special Agent Costello, what do you read that to say?

7 A. "I see way to bring my kids or take revenge" exclamation  
8 point.

9 Q. Do you recall the defendant making any statements along  
10 those lines during the course of your interviews with him?

11 A. I do. Nearly verbatim, the defendant stated he felt the  
12 FBI could go and just take his kids, and also he could utilize  
13 the FBI to go after his wife's family for some sort of  
14 perceived slight.

15 MS. HOULE: Turning to the next page, Mr. DeLuca, if  
16 you could zoom in on the top four bullet points there.

17 Q. Special Agent, what do you read those notes to say?

18 A. At the top, "No-flight list, all her family. Kicked out of  
19 an airport job. Restraining order, mom. BK, extradite him.  
20 Facebook message."

21 Q. Do you recall the defendant making any statements along the  
22 lines of those notes during your interviews of him?

23 A. Yes.

24 Q. What do you recall?

25 A. For example, the defendant had requested that we put his

I3qrkou3

Costello - cross

1 wife's family on the no-fly list. He had previously discussed  
2 with us an individual of his wife's family who worked at the  
3 Fort McMurray, Canada, airport. I assume that's what that's a  
4 reference to. Finally, he used the phrase "restraining order"  
5 in terms of his wife's mother, his mother-in-law, and Bashir  
6 Kourani, his wife's brother-in-law. And finally that we could  
7 extradite Bashir Kourani for something. I was never clear  
8 what.

9 Q. We covered a number of meetings and conversations that you  
10 had with the defendant and Mr. Denbeaux. Are there any  
11 meetings or conversations we have not covered during your  
12 testimony in which you made any offer of immunity?

13 A. No, there was not.

14 Q. Were you ever asked about immunity for the defendant?

15 A. No, I was not.

16 Q. Did you ever promise that the defendant's statements would  
17 not be used against him?

18 A. No, I did not.

19 MS. HOULE: Thank you. No further questions.

20 THE COURT: Cross-examination, Mr. Schacht.

21 CROSS-EXAMINATION

22 BY MR. SCHACHT:

23 Q. Mr. Costello, are you a lawyer?

24 A. No, sir.

25 Q. As part of your training to become an FBI agent, you

I3qrkou3

Costello - cross

1 received some legal training you talked about on direct  
2 examination, right?

3 A. Yes.

4 Q. You also received some training on how to conduct yourself  
5 in court, is that right?

6 A. Yes.

7 Q. Tips about how to testify?

8 A. Yes.

9 Q. In this case you and Agent Shannon prepared what are called  
10 302 reports, is that right?

11 A. Yes.

12 Q. It's part of your training, am I right, to accurately fill  
13 out your 302 reports?

14 A. Yes.

15 Q. Generally speaking, the way you make a 302 report is by  
16 looking back at notes and going to your own recollection of  
17 what happened and then typing up what happened at a meeting,  
18 right?

19 A. Correct.

20 Q. You mentioned a few minutes ago that at some point you had  
21 been in touch with the two Assistant U.S. Attorneys who are  
22 here in court about this case, is that right?

23 A. Yes.

24 Q. When was the first time in connection with your investi-  
25 gation of Ali Kourani did you have any contact with any

I3qrkou3

Costello - cross

1 Assistant U.S. Attorneys, these two or anyone else in the  
2 Southern District of New York?

3 A. Well before Mr. Kourani came forward in 2017.

4 Q. Would it be fair to say in 2016 or before then?

5 A. 2015, 2016, somewhere in there.

6 Q. So at some point in the 2015 to 2016 period you started  
7 discussing your investigation of Ali Kourani with prosecutors  
8 in the Southern District of New York, is that right?

9 A. Correct, when I came on the squad, which was in December of  
10 2015. So yes.

11 Q. From that time at least?

12 A. Correct.

13 Q. At that time there were different prosecutors than those  
14 two in court?

15 A. Correct.

16 Q. Did you communicate with Assistant U.S. Attorneys after  
17 each of the five meetings that you testified about regarding  
18 the interviews?

19 A. I believe each. I can't say for certain if each one, but I  
20 believe so. At least four of the five.

21 Q. Was that with these U.S. Attorneys or different U.S.  
22 Attorneys?

23 A. I believe after the first interview on March 3rd I may have  
24 spoke to a different U.S. Attorney. But from then-about it  
25 would have been these two Assistant U.S. Attorneys.

I3qrkou3

Costello - cross

1 Q. Who was the different one from March 3rd if you recall?

2 A. Assistant United States Attorney Andrew Bateman.

3 Q. You testified on direct examination that as part of your  
4 training or the rules that you are required to follow as an FBI  
5 agent, you are not allowed to promise things to people that you  
6 are interviewing. Is that a fair summary of what you said?

7 A. Yes.

8 Q. Do you recall in the phonecall before the first meeting  
9 that you had with Mark Denbeaux, in that phonecall you and  
10 Agent Shannon promised confidentiality to Mr. Denbeaux and Mr.  
11 Kourani?

12 A. We certainly didn't use the word "promise," but we did  
13 state to Mr. Denbeaux that we would keep Mr. Kourani's state-  
14 ments confidential from the Lebanese community, which was  
15 specific to Mr. Denbeaux's question.

16 Q. Did you say confidential from the Lebanese community, as  
17 you recall?

18 A. I can't directly quote myself, as I don't directly recall,  
19 but something to that effect, yes.

20 Q. Wouldn't it be fair to say, though, that you were telling  
21 Mr. Denbeaux the truth? You weren't lying to him, right?

22 A. Correct.

23 Q. So by saying you would keep it confidential from the  
24 Lebanese community, that was a kind of promise, wasn't it, you  
25 were promising it for to Mr. Denbeaux?

I3qrkou3

Costello - cross

1 A. I would say that at that time we would certainly keep it  
2 confidential from the Lebanese community.

3 Q. What time period are you referring to when you say "at that  
4 time"?

5 A. We hadn't met with Mr. Kourani yet. At that time we were  
6 keeping all our options on the table.

7 Q. What does that mean, all your options on the table?

8 A. I mean if Mr. Kourani was going to be providing the full  
9 and complete truth to the U.S. government, we would certainly  
10 not be sharing that with anyone.

11 Q. Did you say to Mr. Denbeaux --

12 THE COURT: I don't think that answers the question of  
13 what options were available. That is your question, right?

14 MR. SCHACHT: Yes, your Honor.

15 A. It depends. We had previously met with Mr. Kourani. He  
16 had provided us no information. We then interviewed  
17 individuals in the Lebanese community. So it is difficult to  
18 speak for what could happen. But at that point I did say to  
19 Mr. Denbeaux that we would keep it confidential from the  
20 Lebanese community, him meeting with us.

21 Q. But you didn't say to Mr. Denbeaux that that was a  
22 condition or a conditional promise, right? Withdrawn. I'll  
23 rephrase the question. You didn't say to him that it was only  
24 confidential if he tells the truth? You didn't say that, did  
25 you?

I3qrkou3

Costello - cross

1 A. No, I did not.

2 Q. Can you describe what you meant by "confidential."

3 A. We wouldn't be taking the information Mr. Kourani provided,  
4 whatever that was, and, say, telling other individuals in the  
5 community that he was providing us that information.

6 Q. In fact, here in court today, this is a public courtroom,  
7 right?

8 A. Correct.

9 Q. What's happening is public, right?

10 A. Correct.

11 Q. So nothing you are saying today is confidential, correct?

12 A. Correct.

13 Q. When you arrested Mr. Kourani, a complaint was prepared,  
14 right?

15 A. Correct.

16 Q. I believe you signed the complaint in this case, didn't  
17 you?

18 A. Yes.

19 Q. Many of the facts in the complaint come from my client's  
20 mouth, right?

21 A. Correct.

22 Q. Those were things that he said to you after you told Mr.  
23 Denbeaux that it was going to be confidential, right?

24 A. Correct. The complaint was sealed though.

25 THE COURT: You did you use the word "confidential"?

I3qrkou3

Costello - cross

1           THE WITNESS: In that first phonecall with Mr.  
2 Denbeaux?

3           THE COURT: Yes.

4           THE WITNESS: I believe Mr. Denbeaux used the word in  
5 his question to me about the Lebanese community.

6           THE COURT: What did he ask? What did he say?

7           THE WITNESS: I'm paraphrasing here from memory: Will  
8 you be keeping my client's statements to you confidential from  
9 the Lebanese community? To the best of my knowledge and  
10 recollection, your Honor.

11          THE COURT: He used "from the Lebanese community."

12          THE WITNESS: Something thereabouts, yes.

13          THE COURT: What is the best of your recollection of  
14 what he said?

15          THE WITNESS: "Lebanese community." He may have said  
16 "Lebanese associates" or "friends."

17          THE COURT: But Lebanese definitely?

18          THE WITNESS: Yes.

19          THE COURT: And you said?

20          THE WITNESS: I said yes, we would be.

21          THE COURT: Did you have to check with your superiors?

22          THE WITNESS: No, I did not, not at that juncture.

23          THE COURT: Why not?

24          THE WITNESS: I relayed the conversation to my  
25 superiors, but I'm authorized, at least on that call, to answer

I3qrkou3

Costello - cross

1 his question.

2 BY MR. SCHACHT:

3 Q. Do you recall the time period when you went to Lebanon the  
4 first time you met my client?

5 A. I do.

6 Q. At that time the reason why my client asked to meet with  
7 people from the U.S. government was because the U.S. government  
8 at the American embassy in Lebanon had taken his U.S. passport,  
9 is that right?

10 A. That's not my understanding. I was notified the client  
11 came in and wanted to meet with someone from the U.S.  
12 government, and I flew out to meet him.

13 Q. When you met with Mr. Kourani, do you recall him asking to  
14 have his passport returned to him?

15 A. It was returned to him.

16 THE COURT: That wasn't the question.

17 Q. Do you recall him asking for his passport?

18 A. I do not.

19 Q. Do you know what the FBI calls a confidential human source?

20 A. I'm familiar with the term.

21 Q. What is a confidential human source?

22 A. Not quoting FBI policy, but my understanding of it is an  
23 individual signed up with the FBI to provide information on  
24 criminal activity.

25 Q. A confidential human source is a kind of informant, right?

I3qrkou3

Costello - cross

1 A. Yes.

2 Q. The informant promises to do certain things for the FBI.  
3 They are a confidential human source, right?

4 A. I don't know if they promise. They provide information.

5 Q. Presumably, the FBI wouldn't make someone a confidential  
6 human source unless they were providing some information?

7 A. Certainly.

8 Q. Presumably, the FBI promises certain things to the  
9 confidential human source in exchange for the information,  
10 right?

11 A. No.

12 Q. No?

13 A. No, that's not my understanding of it at all.

14 Q. Like the name implies, don't they promise the person  
15 confidentiality?

16 A. Yes but -- I mean it implies. I would hesitate to say it  
17 is any spoken promise.

18 THE COURT: He can't testify about what is implied  
19 unless he meant to say that. Ms. Houle, you are allowed to  
20 object, you know.

21 MS. HOULE: Thank you, your Honor.

22 Q. If you know, are FBI confidential sources promised  
23 confidentiality?

24 A. I don't know.

25 Q. Have you ever had a confidential human source as an FBI

I3qrkou3

Costello - cross

1 agent?

2 A. I have.

3 Q. Have you promised that person or people anything?

4 A. No.

5 Q. I don't mean personally. I mean on behalf of the FBI.

6 A. No.

7 Q. Do those people sign an agreement with the FBI?

8 A. It's been some time. I don't believe so, no.

9 Q. You have been an FBI agent three and a half years, right?

10 A. Approximately.

11 Q. How long ago was it that you signed up someone as a  
12 confidential human source?

13 A. Approximately two years ago.

14 Q. You don't remember what the terms of that agreement were  
15 from two years ago?

16 A. Sir, we have what we call our admonishments, which deal  
17 with illegal activity, their status as an agent of the  
18 government. Yes.

19 Q. Do you remember what was in that agreement?

20 A. Again, it's a verbal admonishment, that to the best of my  
21 recollection I verbally admonished the informant.

22 THE COURT: What is it you admonish?

23 THE WITNESS: That they are not to conduct any illegal  
24 activity, that they are not protected by any protections from  
25 the FBI, and finally that they are not an agent of the

I3qrkou3

Costello - cross

1 government. They can't go out and conduct activity on their  
2 own without first being directed by me, their handler.

3 Q. It is your testimony that they are not given anything in  
4 exchange for that from the FBI?

5 A. No promises, certainly not. In my experience I've not  
6 given anything to my informants.

7 Q. What are they being informants for then? For what reason?

8 A. A variety of reasons. Many informants are different. It's  
9 tough to nail one down.

10 Q. In your experience, it's never because the FBI is offering  
11 them anything?

12 A. No, never that, no.

13 Q. It's always some other personal reason?

14 A. I don't want to speak to -- I can't speak for all  
15 informants. I can only speak from my limited experience.

16 Q. I'm only asking about your personal experience. You have  
17 never promised any informant anything?

18 A. No.

19 THE COURT: No, you never did?

20 THE WITNESS: No, I never have, your Honor. Nor am I  
21 authorized to.

22 Q. Do you recall specifically in this case that my client was  
23 interested in being reunited with his children? Right?

24 A. I do.

25 Q. He was interested in having his sister and father, who were

I3qrkou3

Costello - cross

1 then in Lebanon, somehow allowed to come legally to the United  
2 States, correct?

3 A. Correct, I do remember that.

4 Q. Those were things that he was asking you for, right?

5 A. Correct.

6 Q. Your testimony, am I right, is you have never offered any  
7 informants ever anything in exchange for them being informants,  
8 is that right? I want to make sure I'm right.

9 A. I have discussed it with informants. But I have made clear  
10 to my informants that I can't promise nor deliver anything for  
11 their testimony or their information.

12 THE COURT: How many informants have you had?

13 THE WITNESS: With the FBI officially? Two.

14 Q. I'm not asking about whether you can personally do it. But  
15 as a representative of the FBI, have you ever offered anything  
16 to these two informants on behalf of the FBI after checking  
17 with your supervisors?

18 A. Other than coffee, no.

19 Q. Would it be fair to say, then, that Mr. Kourani is the only  
20 person in your career who you have discussed -- I'm not asking  
21 if you promised -- who you have discussed giving benefits to?

22 Is that fair to say?

23 A. No.

24 Q. There are other people you have discussed giving benefits  
25 to?

I3qrkou3

Costello - cross

1 A. I mean in my career I have interviewed individuals who will  
2 say I would like this or I'd like that, and I would maintain  
3 that I understand that but I can't make any promises, or  
4 deliver any promises for that matter.

5 THE COURT: Would you say that all confidential  
6 informants that you have experienced want something?

7 THE WITNESS: No, I would not say that, your Honor.

8 THE COURT: Some do?

9 THE WITNESS: Some do, your Honor, yes.

10 Q. In this case you discussed or you and Agent Shannon in your  
11 presence discussed with Mr. Kourani the possibility of  
12 providing him or his family with immigration help, right?

13 A. Yes.

14 Q. At some point in the meetings you discussed a possible time  
15 line for that, right?

16 A. Yes.

17 Q. When you offered that possible time line for the help, you  
18 were being honest, I assume, right?

19 A. Yes. But as I stated in my direct, I felt very uncomfort-  
20 able giving him that answer. I was speaking for other govern-  
21 ment agencies, which are, we all know, large bureaucracies with  
22 their own processes. So it was a best guess.

23 Q. You mentioned on direct examination that Mr. Kourani wanted  
24 help getting a job, is that right?

25 A. Yes.

I3qrkou3

Costello - cross

1 Q. You discussed with him the possibility of the FBI helping  
2 him to get a job, right?

3 A. Not really. It was more of a one-way conversation specific  
4 to that, and a lot of his other, quote, demands. He would  
5 state these things, and I would constantly remind him that it  
6 didn't matter if he wanted the world. It was more important  
7 that we discuss his involvement with Hezbollah before we have  
8 any of those conversations.

9 Q. At some point my client actually gave you his résumé,  
10 right?

11 A. I believe he emailed it to me. I can't recall. Or he gave  
12 it to me. One or the other.

13 MR. SCHACHT: Mr. DeLuca, could you please, when you  
14 have a moment, put Government Exhibit 225 on the screen. Thank  
15 you very much.

16 Your Honor, I would ask for a stipulation that this be  
17 put in evidence. I can lay the groundwork if you would like.

18 MS. HOULE: That's fine, your Honor.

19 MR. SCHACHT: Thank you.

20 THE COURT: 225 is in evidence, received.

21 (Government's Exhibit 225 received in evidence)

22 Q. Mr. Costello, please take a look at that. I ask if that  
23 refreshes your recollection about whether he gave it to you or  
24 emailed it to you?

25 A. Yes, it appears to be an email sent to my email account

I3qrkou3

Costello - cross

1 from an address I know to be Mr. Kourani's.

2 Q. He had previously, it looks like, sent an email to someone  
3 else, a recruiter, and then he is forwarding that email to you  
4 which has his résumés attached, right?

5 A. That's what it appears, yes.

6 Q. He did this, it looks like, on April 18, 2017, yes?

7 A. Yes, that is the time stamp.

8 Q. This was after he had asked your help or the FBI's help in  
9 getting him a job, right?

10 A. That's not exactly how he put it. He stated he wanted a  
11 job in his field for \$120,000 a year.

12 Q. But he wanted a job that paid \$120,000, not that he wanted  
13 you personally to give him \$120,000?

14 A. I wasn't entirely clear on that.

15 Q. You weren't clear? You thought that he was asking you  
16 personally for money?

17 A. No. I think what I'm trying to say is him sending his  
18 résumé came as a surprise to me, a shock for lack of a better  
19 word.

20 THE COURT: Why were you shocked?

21 THE WITNESS: Mr. Kourani had discussed with us the  
22 idea of should he continue to cooperate, he would like  
23 employment. But at no point did I tell him to send me his  
24 résumé, and at no point would I want him to based off some of  
25 the issues with Hezbollah's access to email addresses. So I

I3qrkou3

Costello - cross

1 was very surprised to receive this email.

2 Q. I'm sorry. What did you mean about Hezbollah and access to  
3 email addresses? What are you referring to there?

4 A. For example, Mr. Kourani didn't want to have a cell phone  
5 on him during his interviews with us because he felt Hezbollah  
6 could listen in. Based off that from Mr. Kourani, I didn't  
7 know if they had access to his email address. I didn't want  
8 him emailing an FBI.gov account at that point.

9 Q. Do you know how he got your email address?

10 A. Either from Mr. Denbeaux or -- no, I don't know, excuse me.

11 Q. Do you recall there was an exhibit where Mr. Denbeaux had  
12 sent you a text message saying that there is no promises? Do  
13 you recall that text message?

14 A. I do.

15 Q. That text message was sent very shortly, perhaps within an  
16 hour, of when you completed the meeting that day with Mr.  
17 Kourani, right?

18 A. It was.

19 Q. That meeting ended before he sent the text message with you  
20 and Mr. Denbeaux having a dispute, a verbal dispute for lack of  
21 a better word, is that fair to say? Maybe "dispute" is the  
22 wrong word. How would you characterize the way that ended,  
23 that conversation?

24 A. I felt that he just insulted me kind of out of nowhere.

25 THE COURT: Insulted you about what?

I3qrkou3

Costello - cross

1                 THE WITNESS: I was reminding both Mr. Denbeaux and  
2 Mr. Kourani that I couldn't make any promises. They said I  
3 sounded like a broken record. I said directly to Mr. Denbeaux,  
4 Mr. Denbeaux, give me a break, I'm just a low-level agent, I  
5 can make these things happen, I'm just doing my job. He said,  
6 that's the same thing the Nazis said in World War II and that's  
7 the same thing the cops who sprayed black people with hoses in  
8 the South said. I found that very offensive.

9                 THE COURT: You said it?

10                 THE WITNESS: Yes. I said I was greatly insulted by  
11 it, and I left.

12 Q. The thing that Mr. Denbeaux was upset about was you told  
13 Mr. Denbeaux that you couldn't make any promises about  
14 benefits, right? Benefits to Mr. Kourani I mean.

15 A. Correct.

16 Q. What they were looking for at the end of the meeting was  
17 help with the immigration issue, right?

18 MS. HOULE: Objection. I think it calls for  
19 speculation.

20                 THE COURT: Put the question again, please.

21                 MR. SCHACHT: I'll rephrase the question.

22 Q. The dispute that you were having at the end of the meeting  
23 or dispute on Mr. Denbeaux's part was that you were moving too  
24 slowly in getting the immigration help and Denbeaux was upset,  
25 right?

13qrkou3

Costello - cross

1           THE COURT: Did Denbeaux say that?

2           THE WITNESS: No, your Honor, not to my recollection.

3           THE COURT: You can't ask that question. The  
4 objection is sustained.

5           Q. Denbeaux told you that he was angry that you were moving  
6 too slowly with helping his client get the immigration help,  
7 right?

8           A. No.

9           Q. He didn't tell you that?

10          A. At the end of the first meeting, to my recollection, no.  
11 It was just our first meeting.

12          THE COURT: At some point did he say that?

13          THE WITNESS: Your Honor, towards the end in May, when  
14 we were on the telephone, Mr. Denbeaux and I, he did express  
15 anger.

16          THE COURT: Anger about what?

17          THE WITNESS: I can't really testify to what he felt,  
18 but he was angry that the government had not come through for  
19 his client yesterday, as it said in his text message.

20          (Continued on next page)

21

22

23

24

25

13QAAKOU4

Costello - Cross

1 BY MR. SCHACHT:

2 Q. Right. And "come through for his client" what he meant by  
3 that was with the immigration help?

4 A. I really can't state to what he meant specifically.

5 Q. Well, what other topic could it have been other than the  
6 immigration help, based on your conversations?

7 A. Mr. Kourani talked at length at the FBI targeting his  
8 in-laws at giving him a doorman building in Manhattan, giving  
9 him money annually. Nearly every meeting would begin with  
10 Mr. Kourani kind of opining what he felt he was entitled to.

11 Q. But my question was very specific. It's just about that  
12 meeting that day March 24. Mr. Denbeaux was upset or said he  
13 was upset that you were not, you, the FBI, were not providing  
14 the benefits quickly enough, right?

15 A. No. Again it ended very amicably, the meeting. We  
16 laughed. I believe Mr. Denbeaux said I sounded like a broken  
17 record saying that I can't make promises. And at that point  
18 that's when I said kind of "give me a break". To the best of  
19 my recollection that's when he insulted me.

20 Q. I'd like to have you take a look -- do you have the 3500  
21 material with you or should I hand you a book, if you have a  
22 binder?

23 A. I do. I have two here.

24 MS. HOULE: Objection, your Honor. He hasn't been  
25 asked any question that he said he couldn't recall.

13QAAKOU4

Costello - Cross

1           THE COURT: He is not doing anything. He is just  
2 looking at a binder. When he does something --

3 Q. Can you please look at 350 -- it's called 3501-28.

4           THE COURT: I didn't hear.

5 MR. SCHACHT: A 3501-28.

6 THE COURT: Give me time to get to it.

7 MR. SCHACHT: Sure. Sorry.

8 (Pause)

9 Q. On the second page of this two-page document, 3501-28, is  
10 it your testimony that --

11          THE COURT: Don't do it that way.

12 MR. SCHACHT: Withdrawn.

13 Q. Do you recall --

14          THE COURT: Are these your notes, Mr. Costello?

15 THE DEFENDANT: They don't appear so.

16 MR. SCHACHT: No, your Honor. These are notes --

17          THE COURT: I just asked him a question. Don't tell  
18 me.

19 Q. Do you recall telling Ms. Houle that Denbeaux made a joke  
20 to you that you, he, Mr. Denbeaux knows you're able to get this  
21 done regarding benefits; do you recall telling her that?

22 A. No, not in those words, no.

23          THE COURT: In substance?

24          THE WITNESS: My understanding what Mr. Denbeaux said  
25 to me kind of give me a break, not that he knows I can make

13QAAKOU4

Costello - Cross

1 things happen.

2 THE COURT: Give me a break about what?

3 THE WITNESS: I kept saying that I can't make  
4 promises. I can't make promises.

5 Q. And he said to you give me a break or words to that effect?

6 A. Yeah, I believe so, yes.

7 THE COURT: So he was acting as if he believed you  
8 could make promises?

9 THE WITNESS: My understanding, yes. Oh, no. I'm  
10 sorry, your Honor. Can you restate that?

11 THE COURT: Was it your understanding that Denbeaux  
12 thought you could make promises?

13 THE WITNESS: No. My understanding because we had  
14 discussed it in the beginning of the meeting is that  
15 Mr. Denbeaux knew I could not make promises, your Honor.

16 THE COURT: When he said, "give me a break", what did  
17 you take that to mean?

18 THE WITNESS: Because I had said it again. I  
19 bookended most of these meetings with kind of two things.

20 THE COURT: So give me a break because he found your  
21 comments too repetitive?

22 THE WITNESS: Correct, your Honor.

23 THE COURT: That was your interpretation?

24 THE WITNESS: Yes, your Honor.

25 Q. So, you say that you bookended the meetings typically with

13QAAKOU4

Costello - Cross

1 a blanket statement about being unable to make promises, right?

2 A. Correct.

3 Q. And so when Mr. Denbeaux provided that exhibit to you,  
4 which for the record is 703, I believe which is the document  
5 where Mr. Denbeaux says you've already agreed that there's not  
6 going to be a prosecution, that must have come as a big shock  
7 to you, right?

8 THE COURT: 703?

9 Q. When he handed you and Agent Shannon that document, that  
10 must have been a shock to you that he was saying you had agreed  
11 there would be no prosecution, right?

12 A. Correct. We were surprised.

13 Q. And when you say "we" you mean you and Agent Shannon?

14 A. Yes.

15 Q. And it's your recollection is, what did you do with the  
16 copy of this document that you'd been given?

17 A. I'm sorry. The question was?

18 THE COURT: What did do you with Exhibit 703?

19 THE WITNESS: We exited the room, looked at it  
20 briefly, agreed that we didn't agree with some of the points on  
21 it, re-entered the room, placed it back on the table and began  
22 our interview with Mr. Kourani.

23 Q. Did it sit there on the table throughout the interview?

24 A. I can't recall where it sat.

25 Q. And did you or Agent Shannon do you recall take it with you

I3QAAKOU4

Costello - Cross

1 after the meeting?

2 A. No, we did not.

3 Q. Did you discuss with AUSA Beaty or any other AUSA about the  
4 document at that time?

5 A. I can't recall. I don't think so.

6 Q. You didn't think that that was a relevant thing to discuss  
7 with the assistant U.S. Attorneys?

8 A. I can't really state to what I was thinking at the time but  
9 it wasn't really pertinent to the information we wanted to get  
10 from Mr. Kourani.

11 Q. You can't state because you don't recall? Why can't you it  
12 state what you were thinking at the time?

13 A. We were more concerned with Mr. Kourani's information than  
14 Denbeaux's thoughts.

15 Q. So it would be fair to say you very much wanted what you  
16 believed to be Mr. Kourani's help if he was willing to help you  
17 in a way that you thought he could, right?

18 A. I hesitate to use word the "help". I would say we wanted  
19 Mr. Kourani's cooperation.

20 Q. His cooperation. That was important to you?

21 A. Yes.

22 Q. Do you recall the later text message that Mr. Denbeaux sent  
23 to you which is Government Exhibit 302?

24 A. Yes, I do recall receiving that text message.

25 Q. And that text message, also am I right, surprised you to

13QAAKOU4

Costello - Cross

1 get that as well, right?

2 A. Correct.

3 Q. And part of the reason it surprised you was because it  
4 includes the statement that you and he had agreed upon certain  
5 assistance that you would provide to Mr. Kourani?

6 A. Correct. I was surprised because he had agreed on nothing.

7 Q. And did you bring this text message to the attention of any  
8 U.S. Attorney's at that time, if you recall?

9 A. I don't think I did. I may have. I really can't recall.

10 Q. Do you recall what, if anything, you said to Mr. Kourani or  
11 Mr. Denbeaux about Mr. Kourani sending you his resume, if  
12 anything?

13 A. I believe I said to Mr. Kourani I'd received his e-mail but  
14 that based off his previous statements he should refrain from  
15 e-mailing me again.

16 MR. SCHACHT: One moment, your Honor. I need to  
17 consult with my client for a second.

18 THE COURT: Sure.

19 MR. SCHACHT: Thank you, your Honor. I have no other  
20 questions.

21 THE COURT: Redirect, Ms. Houle?

22 MS. HOULE: Just one question, your Honor.

23 Could you please pull back up Government Exhibit 703.  
24 And new could focus in again on those first two lines.

25 (Pause)

13QAAKOU4

Shannon - Direct

1 REDIRECT EXAMINATION

2 BY MS. HOULE:

3 Q. Mr. Costello, you were just asked some questions about this  
4 phrase here because it has already been agreed he has committed  
5 no crimes and faces no prosecution. To be clear, when you  
6 received this document and initially reviewed it, did you  
7 understand who Mr. Denbeaux was referring to when he said "it  
8 had been agreed"?

9 A. No, I did not know who he was speaking for other than I  
10 knew it to not include me because we made no agreement.

11 MS. HOULE: One moment, your Honor.

12 No further questions.

13 THE COURT: Thank you. You can step down.

14 MR. BOVE: Your Honor, the next witness is Keri  
15 Shannon.

16 KERI SHANNON,

17 called as a witness by the Government,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BOVE:

21 Q. Ms. Shannon, where do you work?

22 A. I work at THE Federal Bureau of Investigation.

23 Q. How long have you worked at THE FBI?

24 A. I've been at the FBI for just over five years.

25 Q. Are you currently assigned to a particular squad?

13QAAKOU4

Shannon - Direct

1 A. I am assigned to the Joint Terrorism Task Force and I am  
2 assigned to a squad that works Iranian threats and Lebanese  
3 Hezbollah.

4 Q. What did you do for work before you joined the FBI?

5 A. I was an attorney.

6 Q. Did you practice law?

7 A. I did.

8 Q. For about how long?

9 A. About four years.

10 Q. What kind of law did you practice?

11 A. I did imminent domain and real estate tax certiorari.

12 Q. Have you ever practice criminal law?

13 A. I have not.

14 Q. Did you receive any training when you started to work at  
15 the FBI?

16 A. I did. I attended the FBI training academy in Quantico,  
17 Virginia for about five months.

18 Q. When approximately did you start the training at Quantico?

19 A. In February of 2013.

20 Q. What were some of the topics that were covered at this  
21 Quantico training?

22 A. The basis of the academy is learning how to be a law  
23 enforcement officer and the curriculum is broken down into two  
24 major areas, academics and operational.

25 THE COURT: You can lead her, Mr. Bove, on the

13QAAKOU4

Shannon - Direct

1 background.

2 Q. Did you receive any training on the topics of interviews  
3 and interrogations?

4 A. I did.

5 Q. What, if any, other training did you receive on those  
6 issues?

7 A. We learned the differences between interviews and  
8 interrogations. We focused on the difference essentially being  
9 in the objective of each. So the purpose of an interview is to  
10 collect information from a victim, a witness, a subject and in  
11 the context of an interrogation, the objective is to elicit a  
12 confession or an admission.

13 Q. And in light of those objectives, did you receive any  
14 training in Quantico about how to approach these two types of  
15 interactions?

16 A. Yes. With respect to an interview, the subject, the  
17 witness, the victim, the interviewee is the person who does  
18 most of the talking. They explain what they've done, what  
19 they've seen, what they've heard, observed.

20 THE COURT: Slow down please.

21 A. With respect to an interrogation it is the interviewer or  
22 the law enforcement officer who does most of the talking.

23 Q. Did you receive any training at Quantico on the topic of  
24 making promises during interviews?

25 A. Yes. We covered that topic in connection with what

13QAAKOU4

Shannon - Direct

1 authorities we possess as law enforcement officers and we lack  
2 authority to make promises on behalf of the bureau or the  
3 United States government at large.

4 Q. Did you receive any training at Quantico about providing  
5 again benefits in connection with interviews?

6 A. Yes. Similar context, that we lack authority or power to  
7 guarantee or promise benefits of any kind.

8 Q. What about immunity, was that covered at Quantico?

9 A. It was.

10 Q. And what was the sum and substance of the training on the  
11 topic of immunity at Quantico?

12 A. Again, as agents we are not authorized to promise anyone  
13 immunity from prosecution but that is something that the  
14 prosecutors, that is in their wheelhouse rather than agents.

15 Q. When you say "wheelhouse" do you mean that the FBI lacks  
16 the authority to -- immunity?

17 A. Correct.

18 Q. Do you know a man named Ali Kourani?

19 A. I do.

20 Q. Have you ever have you interviewed him before?

21 A. I have.

22 Q. Did you approach any of those meetings as interrogations  
23 rather than interviews as you've just described those terms?

24 A. No, I did not.

25 Q. About how many interviews did you participate in of

I3QAAKOU4

Shannon - Direct

1 Mr. Kourani?

2 A. Approximately, six interviews of Mr. Kourani.

3 Q. During any of those interviews, did Mr. Kourani ask about  
4 immunity from prosecution?

5 A. He did not.

6 Q. During any of those interviews did he ask about protections  
7 of his statements?

8 A. He did not.

9 Q. Did you promise immunity to Ali Kourani at any time?

10 A. I did not.

11 Q. Did anyone promise immunity to Kourani in your presence?

12 A. No.

13 Q. When was the first time that you interviewed Ali Kourani?

14 A. The first time I interviewed Mr. Kourani was September 12,  
15 2016, at Newark Airport in New Jersey.

16 Q. Did you identify yourself during that interview?

17 A. I did. The agents involved in that interview were me and  
18 Special Agent Daniel Gancey and we began the interview by  
19 identifying ourselves and showing Mr. Kourani our bureau issued  
20 credentials.

21 Q. During that interview on September 12, 2016, did  
22 Mr. Kourani say anything about his family?

23 A. He did. Mr. Kourani relayed a story about a recent  
24 incident in Lebanon in August of 2016 which involved his wife's  
25 family. Mr. Kourani indicated that matters came to a head when

13QAAKOU4

Shannon - Direct

1 he went to his mother-in-law's house to pick up his two young  
2 children and his wife. Mr. Kourani stated that his  
3 mother-in-law is unstable and that she came out of the  
4 residence screaming and yelling at him and threw his two  
5 children into the back of his car. Mr. Kourani stated she  
6 continued to yell at him his, mother-in-law, and pulled on his  
7 door handle to try to get him to exit the vehicle, at which  
8 point she tripped and fell backwards as a result of pulling on  
9 the door handle. Following that incident Mr. Kourani stated  
10 that his wife's family to include her brothers and cousins who  
11 are all part of Hezbollah militia in Lebanon went to his home,  
12 surrounded his home, threatened him and according to  
13 Mr. Kourani fired bullets at his house.

14 THE COURT: How did this meeting come to happen? Was  
15 it arranged?

16 THE WITNESS: Yes, sir. This meeting happened after  
17 Mr. Kourani went through a secondary screening at the airport  
18 upon reentering into a United States.

19 THE COURT: So he was trying to come into the United  
20 States and he was told to go to another room for what purpose?

21 THE WITNESS: Mr. Kourani came, returned from Lebanon  
22 and he was interviewed by CDP first.

23 THE COURT: CBP?

24 THE WITNESS: Customs Border officers. And we entered  
25 the room after they conducted their interview and we spoke with

13QAAKOU4

Shannon - Direct

1 Mr. Kourani at that time.

2 THE COURT: How did you know it was an interview and  
3 not an interrogation?

4 THE WITNESS: How did I know?

5 THE COURT: Right.

6 THE WITNESS: Based on my training at the academy in  
7 this case we asked Mr. Kourani if he was willing to speak with  
8 us. He indicated he was and he relayed and answered all of our  
9 questions that we posed to him at that time.

10 Q. Just to be clear, when you conducted the interview on  
11 September 12, did you first identify yourselves?

12 A. Yes.

13 Q. During the course of the interview was cooperation  
14 discussed?

15 A. Yes. Mr. Kourani indicated he was cooperating with FBI  
16 agents. He was speaking to agents. And I explained to  
17 Mr. Kourani that it would only be considered cooperation if he  
18 were truthful, honest in providing meaningful information to  
19 the FBI.

20 Q. Did you ask Kourani any questions about Hezbollah during  
21 the interview on September 12, 2016?

22 A. I did. I asked him to provide us with the name of his  
23 contact or his handler in Hezbollah.

24 Q. How, if at all, did he respond to that question?

25 A. Mr. Kourani denied having a contact in Hezbollah.

13QAAKOU4

Shannon - Direct

1 Q. How did this interview end?

2 A. I again asked Mr. Kourani if he could tell us the name of  
3 his contact. He denied having a contact for a second time and  
4 I told him at that point we had nothing further to discuss with  
5 him.

6 Q. Now, after the interview on September 12, 2016, did someone  
7 contact you on behalf of Kourani?

8 A. Yes. Mr. Mark Denbeaux contacted me on February 28, 2017.  
9 He left me a voice message.

10 THE COURT: So between September of 2016, February 20,  
11 did you say February 20?

12 THE WITNESS: February 28.

13 THE COURT: Of 2017 you had no contact with  
14 Mr. Kourani.

15 THE WITNESS: Correct, your Honor.

16 THE COURT: And Denbeaux called you on February 28?

17 THE WITNESS: Yes, your Honor.

18 THE COURT: So you were asked questions of Mr. Kourani  
19 on September 12, 2016?

20 THE WITNESS: Yes.

21 THE COURT: Was there a colleague of yours also doing  
22 it?

23 THE WITNESS: Yes.

24 THE COURT: Who?

25 A. Special Agent Daniel Gancey was with me.

13QAAKOU4

Shannon - Direct

1           THE COURT: Was Costello?

2           THE WITNESS: No, he was not.

3           THE COURT: And Denbeaux called you on February 28 and  
4 did he announce that he was a lawyer acting for Kourani?

5           THE WITNESS: No, sir. He indicated that he was an  
6 attorney and he had a client who wished to meet with the FBI  
7 but he did not provide the name of his client at that time.

8 Q. If I could just clarify, was that information -- excuse  
9 me -- if I could clarify, how was that information from  
10 Mr. Denbeaux conveyed to you on February 28, 2016?

11 A. He left a voice mail for me on my cellphone.

12 Q. Did you return that voice --

13           THE COURT: February 28, 2017?

14           THE WITNESS: Yes, sir.

15           MR. BOVE: Thank you, judge.

16 Q. Did you return that voice mail immediately?

17 A. I did not.

18 Q. Why not?

19 A. I didn't know who Mark Denbeaux was and he had not  
20 indicated who he represented, and so I was waiting to have some  
21 more information before returning that phone call.

22 Q. Are you aware of other efforts by Mr. Denbeaux to contact  
23 the FBI in this timeframe in 2017?

24 A. Yes. The next day on March 1, 2017, I received a second  
25 voice message from Mr. Denbeaux indicating that he again had a

13QAAKOU4

Shannon - Direct

1 client who wished to meet with the FBI and he wanted to speak  
2 with me. And that same day in the evening I received an e-mail  
3 from a customer service representative from the FBI's public  
4 access line indicating that Mr. Denbeaux was trying to get in  
5 contact with me regarding a client whose name he would not  
6 provide at that time but would only state that he was of Middle  
7 Eastern descent.

8 MR. BOVE: Could you please bring up Government  
9 Exhibit 101.

10 (Pause)

11 Q. Special Agent Shannon, is this the e-mail that you were  
12 just referring to?

13 A. Yes, this is it.

14 Q. Based on this e-mail communication, did you infer anything  
15 about the identity of Mr. Denbeaux's client?

16 A. I thought that perhaps Mr. Denbeaux represented Ali  
17 Kourani. Based on the fact that this e-mail went to both  
18 myself and Special Agent Costello and Mr. Denbeaux's  
19 description of representing a client of Middle Eastern descent?

20 THE COURT: How did Costello get into the case?  
21 Denbeaux had not met with him as far as you know.

22 THE WITNESS: No. Neither of us had met with  
23 Mr. Denbeaux as of this time, your Honor. So it was my belief  
24 that Mr. Denbeaux had been told by someone that Special Agent  
25 Costello and myself were involved in the Ali Kourani

13QAAKOU4

Shannon - Direct

1 investigation.

2 THE COURT: Go ahead.

3 Q. Did you return Mr. Denbeaux's calls at some point?

4 A. I did. The next day on March 2, 2017, I called  
5 Mr. Denbeaux back.

6 Q. Did Mr. Denbeaux identify his client during that call?

7 A. Yes. During that telephone call Mr. Denbeaux indicated he  
8 represented Ali Kourani and that Mr. Kourani wished to meet  
9 with the FBI.

10 Q. Did Mr. Denbeaux say anything about Kourani's family during  
11 the call on March 2, 2017?

12 A. Yes. Mr. Denbeaux indicated that Mr. Kourani seemed  
13 frightened because he was having issues with his wife's family  
14 both in Canada and Lebanon.

15 Q. What, if anything, did Mr. Denbeaux say during the call  
16 about advice that he provided to Kourani at that point?

17 A. Mr. Denbeaux stated he wasn't certain whether FBI agents  
18 will previously met with Mr. Kourani or if agents were asking  
19 other people about his client but that Mr. Denbeaux had advised  
20 Mr. Kourani that it was likely in his best interest to  
21 cooperate with the FBI and to the extent Mr. Kourani hadn't  
22 been truthful with the FBI previously, it was in his interest  
23 to be truthful now.

24 THE COURT: This is what Denbeaux told you.

25 THE WITNESS: This is what Mr. Denbeaux told me he had

13QAAKOU4

Shannon - Direct

1 advised is client, Mr. Kourani.

2 Q. How did the call end?

3 A. I told Mr. Denbeaux that we would be willing to meet with  
4 him and his client and that I would call him back to set up a  
5 meeting date.

6 Q. During the call on March 2, 2017, did Mr. Denbeaux mention  
7 immunity?

8 A. He did not.

9 Q. Did he ask any questions during this call about protections  
10 for Kourani's statements?

11 A. He did not.

12 Q. Following that call did you do any research regarding  
13 Mr. Denbeaux?

14 A. Yes. After that telephone call I Googled the name "Mark  
15 Denbeaux" to learn a little bit about him.

16 Q. What did you learn from there Internet search?

17 A. I learned that Mr. Denbeaux was a senior faculty member, a  
18 law professor at Seton Hall Law School and as a practitioner he  
19 was involved in criminal defense work and had represented  
20 Guantanamo detainees.

21 Q. Following the call on March 2, 2017, did you contact  
22 Mr. Denbeaux again about scheduling?

23 A. I did. On March 3, 2017, I reached out to Mr. Denbeaux to  
24 schedule an appointment to meet with him and Mr. Kourani.

25 Q. Was it a date for that interview discussed on the call?

I3QAAKOU4

Shannon - Direct

1 A. Yes. During that telephone call we agreed to schedule an  
2 interview for March 16, 2017, with the caveat that Mr. Denbeaux  
3 needed to confirm that that date worked for his client,  
4 Mr. Kourani.

5 Q. Did you say anything to Mr. Denbeaux during this call about  
6 who participate in this interview from the FBI?

7 A. I did. During this telephone call I told Mr. Denbeaux that  
8 I would bring my partner, Special Agent Joseph Costello,  
9 with me to the interview of Mr. Kourani.

10 Q. During the March 3rd call did Mr. Denbeaux mention  
11 immunity?

12 A. He did not.

13 Q. Did he ask my questions during the call about protections  
14 about of Mr. Kourani's statements?

15 A. He did not.

16 Q. Now after that call on March 3rd of 2017, did there come  
17 another time when you spoke to Mr. Denbeaux on the phone?

18 A. Yes. I reached out to Mr. Denbeaux on March 22, 2017,  
19 pursuant to an e-mail from him requesting that I give him a  
20 call.

21 Q. And had that March 16th tentative date been used for an  
22 interview?

23 A. No.

24 Q. You called him back, Mr. Denbeaux back on March 22nd of  
25 2017. Did anyone else participate in the call?

13QAAKOU4

Shannon - Direct

1 A. Yes. Special Agent Joseph Costello was on that call with  
2 me.

3 Q. How did the call begin?

4 A. The call began with Mr. Denbeaux stating that he had had an  
5 opportunity to meet with his client, Mr. Kourani, and that he  
6 was now aware of what it was that Mr. Kourani was involved in  
7 and why it was that Mr. Kourani wished to meet with the FBI.

8 Q. When Mr. Denbeaux said during the call --

9 THE COURT: What date is that?

10 THE WITNESS: This is March 22, your Honor, 2017.

11 THE COURT: What happened when you arranged the  
12 meeting on March 2, with Denbeaux and Kourani?

13 THE WITNESS: On that date we had agreed to schedule a  
14 meeting for March 16. I believe that during that time period  
15 there were a couple of snowstorms in that year. His law school  
16 as closed.

17 THE COURT: For whatever reason was that meeting that  
18 was adjourned in March 22. So that's the first time you met  
19 with Denbeaux on this case?

20 THE WITNESS: Sir, we were talking over the telephone.

21 THE COURT: The first time you met with him?

22 THE WITNESS: No. The March 22 was a telephone call.

23 Q. There is a binder in front of you with some tabs. If you  
24 could flip to, I think it's the smaller binder.

25 A. OK.

13QAAKOU4

Shannon - Direct

1 MR. BOVE: May I approach, judge?

2 THE COURT: Yes. What number are you looking for?

3 MR. BOVE: Government Exhibit 102, judge.

4 Q. Do you recognize this?

5 A. I do, yes.

6 Q. What is that?

7 A. This is a chain of e-mails between me and Mr. Denbeaux  
8 beginning on March 3, 2017.

9 MR. BOVE: Your Honor, the government offers 102.

10 MR. SCHACHT: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 102 received in evidence)

13 MR. BOVE: Please, the message dated March 22, 2017  
14 at.

15 Q. Is this the e-mail that led to the call between you,  
16 Special Agent Costello and Mr. Denbeaux?

17 A. Yes, sir, it is.

18 THE COURT: Which call did it lead to?

19 THE WITNESS: The March 22, 2017 call with  
20 Mr. Denbeaux.

21 THE COURT: Who is on the line?

22 THE WITNESS: Mr. Denbeaux, Special Agent Costello and  
23 myself.

24 THE COURT: Not Kourani?

25 THE WITNESS: No, no, sir.

13QAAKOU4

Shannon - Direct

1 Q. You testified a moment ago that during this call  
2 Mr. Denbeaux said that he had an opportunity to meet with  
3 Kourani and had a better understanding of what Kourani was  
4 involved in, correct?

5 A. Yes. That's what Mr. Denbeaux said.

6 Q. And with Mr. Denbeaux used that phrase "involved in", what  
7 did you understand him to mean?

8 A. I understood Mr. Denbeaux to be saying that he had met with  
9 Mr. Kourani and that Mr. Kourani had told him about his  
10 affiliation with Unit 910 of Hezbollah and that the fact that  
11 he was operational within the United States, and that  
12 Mr. Denbeaux was aware of the criminal, potential criminal  
13 exposure Mr. Kourani faced in connection with those activities.

14 Q. You just used a phrase "operational in the United States"?

15 A. Correct.

16 Q. What did you mean by that?

17 A. That he had been in the, present in the United States as an  
18 operative of 910 collecting information and whatever directive  
19 he was receiving from the organization.

20 THE COURT: Was that information a product of your  
21 investigation or a product of what Kourani told you in the  
22 airport interview?

23 THE WITNESS: A product of the investigation, sir.

24 THE COURT: As far as you know Kourani never mentioned  
25 this to you directly that he was an operative of 910.

13QAAKOU4

Shannon - Direct

1                   THE WITNESS: Not prior to our interview of him on  
2 March 23.

3                   THE COURT: So Denbeaux's information was the first  
4 time you heard it?

5                   THE WITNESS: Mr. Denbeaux didn't provide that  
6 information.

7                   MR. BOVE: I believe the testimony, judge, is that  
8 Mr. Denbeaux indicated to the agent that he had spoken with  
9 Kourani and understood what Kourani was, quote, involved in.

10                  THE COURT: But we don't know what that meant.

11                  MR. SCHACHT: No. You are confused, your Honor,  
12 because this is what the agent thinks he meant by that.

13                  THE COURT: Is that right?

14                  THE WITNESS: Yes, sir.

15                  THE COURT: Thank you, Mr. Schact. I was confused.  
16 Q. After that part of the call did Mr. Denbeaux ask any  
17 questions?

18 A. He did. He asked whether Mr. Kourani was a target.

19 Q. What response was provided?

20 A. I told Mr. Denbeaux that we were not permitted to discuss  
21 the ongoing nature of a criminal investigation but that his  
22 client, Mr. Kourani, had been interviewed by the FBI on a  
23 number of occasions and was fully aware of FBI's interests in  
24 him.

25                  THE COURT: A number of occasions? When were those

13QAAKOU4

Shannon - Direct

1 occasions?

2 THE WITNESS: Your Honor, in 2016 Mr. Kourani was  
3 interviewed a number of times by the FBI.

4 THE COURT: This is before the interview upon his  
5 coming into the country?

6 THE WITNESS: That's correct, sir.

7 THE COURT: Were you involved in that?

8 THE WITNESS: No, sir.

9 THE COURT: As far as you know was Costello involved?

10 THE WITNESS: Mr. Costello had been involved in one of  
11 those interviews as far as I'm aware, not all of them, no.

12 Q. When you provided that answer in response to Denbeaux's  
13 question about whether or not Kourani was a target, did  
14 Mr. Denbeaux express any concern about what you had said?

15 A. Mr. Denbeaux stated that he wasn't even sure whether his  
16 client cared whether he was a target or not.

17 Q. Did Mr. Denbeaux express any concerns during this call on  
18 March 22, 2017?

19 A. Yes. Mr. Denbeaux indicated that Mr. Kourani was concerned  
20 about people in the community knowing that he was meeting with  
21 FBI. And so Special Agent Costello and I told Mr. Denbeaux  
22 that we would use our best efforts to insure that the community  
23 was not aware that Mr. Kourani was meeting with us, that we  
24 would do our best to keep confidential the fact that  
25 Mr. Kourani was meeting with the FBI.

13QAAKOU4

Shannon - Direct

1 Q. And when that term "community" was used during this call  
2 what did you intend it to mean?

3 A. Members of the Lebanese diaspora here in the New York City  
4 area, as well as people back in Lebanon and his wife's family  
5 in Canada.

6 Q. How did this call end?

7 A. With an agreement to meet the following day March 23, 2017,  
8 at Seton Hall Law School.

9 Q. During that call on March 22, 2017, did Mr. Denbeaux say  
10 anything about immunity?

11 A. He did not.

12 Q. And did you participate in the interview of Kourani the  
13 following day, March 23, 2017?

14 A. I did.

15 Q. Did you do anything to prepare for the interview?

16 A. I did. I met with senior agents on my squad and discussed  
17 some possible topics of interests or themes, if you will, for  
18 the interview the next day.

19 MR. BOVE: Could we take a look at Government Exhibit  
20 501 please.

21 Q. Do you recognize this document?

22 A. I do.

23 Q. What is Government Exhibit 501?

24 A. These are a copy of my notes.

25 MR. BOVE: The government offers 501, judge.

13QAAKOU4

Shannon - Direct

1                   MR. SCHACHT: Your Honor?

2                   THE COURT: That's past recollection. You can use it  
3 to refresh her memory. It's just the notes. It's not evidence  
4 in itself.

5                   MR. BOVE: I submit, judge, I can lay a better  
6 foundation that's evidence of the agent's intent.

7                   THE COURT: Do it the way you normally would. This is  
8 not evidence.

9                   MR. BOVE: You can take that down.

10                  THE COURT: Unless Mr. Schact doesn't care.

11                  MR. SCHACHT: Your Honor, it's a one page of a larger  
12 document. I wouldn't object if the whole document --

13                  THE COURT: We are not going to do that. No evidence  
14 that we don't need. All right. You bring it on in a matter  
15 course. You want to question her, go ahead and question here  
16 if she can't remember.

17 Q. You said that you had a meeting with other people at the  
18 FBI to discuss how to approach the interview of Ali Kourani on  
19 March 23, 2017?

20 A. That's correct.

21 Q. And did, you based on that meeting, develop some themes  
22 that you intended to cover with Mr. Kourani during the  
23 introductory part of the interview?

24 A. Yes.

25 Q. Do you remember what those themes were?

I3QAAKOU4

Shannon - Direct

1 A. Yes. The first thing that we wanted to make clear to  
2 Mr. Kourani was who it was he was meeting with that day. And  
3 so we wanted to explain from my perspective and Special Agent  
4 Costello's perspective what our job is at the FBI. And first  
5 and foremost we view it as a job to protect American people  
6 both within the United States, overseas and we wanted to make  
7 that very clear to Mr. Kourani that that was our principal  
8 objective as FBI agents.

9 Q. I'll come back to the themes at a later point. Let's just  
10 set the stage. Did you actually meet with Kourani on March 23,  
11 2017?

12 A. I did.

13 Q. Where?

14 A. Seton Hall Law School.

15 Q. Who was present for the meeting?

16 A. Mark Denbeaux, Mr. Kourani, Special Agent Costello and  
17 myself.

18 Q. How did the interview begin?

19 A. The interview began with Special Agent Costello and I,  
20 introducing ourselves and showing our bureau issued credentials  
21 to both Mr. Denbeaux and Mr. Kourani. Mr. Denbeaux offered a  
22 few introductory remarks having been the one to arrange the  
23 meetings. And then Mr. Kourani spoke about what it was that he  
24 wanted in exchange for the information that he was going to  
25 provide.

13QAAKOU4

Shannon - Direct

1 Q. And before Mr. Kourani said those things, were some  
2 preliminary remarks made about the terms of the meeting?

3 A. Yes.

4 Q. Was the topic of lying during the meeting covered?

5 A. Yes. We again, as part of the themes as FBI agents we  
6 wanted to make clear to Mr. Kourani that if he were to lie to  
7 us over the course of the interview that that would be  
8 problematic for him. It was a crime. We also included --

9 THE COURT: You told Kourani it was a crime to lie to  
10 the FBI.

11 THE WITNESS: To lie to the federal agents, yes.

12 Additionally, we explained to Mr. Kourani that if his lies were  
13 to involve matters of terrorism, he could face enhanced  
14 penalties.

15 Q. During this introductory part of interview, did you say  
16 anything about the topic of legal protections?

17 A. Yes.

18 Q. What was said about that?

19 A. We explain that as FBI agents we were not authorized to  
20 make any promises for benefits in exchange for information and  
21 we didn't have the authorization to promise anything with  
22 respect to protections.

23 Q. And in connection with that admonishment, was reference  
24 made to the Department of Justice?

25 A. Yes.

13QAAKOU4

Shannon - Direct

1 Q. What was said about the Department of Justice?

2 A. That the Department of Justice possesses prosecutorial  
3 authorities, not the bureau.

4 Q. When you said "the bureau", what did you mean by that?

5 A. The FBI.

6 Q. Now you mentioned that after those admonishments during the  
7 interview Mr. Kourani made a series of statements?

8 A. Yes.

9 Q. What were some of the things that he requested?

10 A. Mr. Kourani was requesting immigration benefits for a  
11 number of members of his family. Specifically, he referenced  
12 his father Mohammad and his Laila, both of whom were in Lebanon  
13 at the time. He wished to have them brought to the United  
14 States.

15 THE COURT: Slow down please.

16 A. Mr. Kourani also referenced his two young children who were  
17 in Canada with his estranged wife. He wished to have them  
18 brought to the United States as well.

19 Q. What were some of the things that were said initially in  
20 response to those requests from Kourani?

21 A. We again explained that we were not authorized to make any  
22 promises with respect to providing any benefit to Mr. Kourani  
23 in exchange for the information that he was going to provide.  
24 And further we explained that in order for the FBI to even  
25 advocate for any of those things on Mr. Kourani's behalf, his

13QAAKOU4

Shannon - Direct

1 information would have to be truthful and honest. He could not  
2 lie to us. He could not withhold information. And second,  
3 that his information had to be valuable. There would be an  
4 assessment of the information he was providing and it had to  
5 justify the benefits that he was requesting at that time.

6 THE COURT: Who said that?

7 THE WITNESS: Special Agent Costello and I both spoke  
8 about those concepts, your Honor.

9 THE COURT: So he tells you I need immigration help  
10 for members of my family in Lebanon and Canada and was it your  
11 response that if you tell us the truth and if we find the  
12 information useful we can, and fill out the rest. We can do  
13 what?

14 THE WITNESS: That we would do our best to advocate  
15 for him but we were not in a position to guarantee or promise  
16 that those things would happen because as FBI agents we lacked  
17 authority to make these promises to him.

18 Q. From your perspective at the time who in the United States  
19 government was in a position to provide the types of  
20 immigration benefits that Kourani said he was seeking?

21 THE WITNESS: Those types of immigration benefits  
22 would have to be coordinated with Department of Homeland  
23 Security.

24 Q. Did you say anything during the interview on March 23,  
25 2017, about communicating with the Department of Homeland

13QAAKOU4

Shannon - Direct

1 Security relating to the benefits and what that would entail?

2 A. Yes. We explained that immigration benefits were not  
3 something that the FBI could unilaterally provide. It required  
4 coordination with other governmental entities and we also  
5 explained that same thinking with respect to what he was  
6 requesting with his family in Canada.

7 THE COURT: Say that again.

8 THE WITNESS: Sure. So we had explained --

9 THE COURT: Some thing with respect to what he was  
10 requesting. You and your colleagues had to deliberate about  
11 it?

12 THE WITNESS: No, your Honor, that we would have to --  
13 that that wasn't something that the FBI alone as an  
14 organization would be able to do, that it would require  
15 coordination with Department of Homeland Security,  
16 specifically, in the instance of an immigration benefit.

17 THE COURT: You used the term "thinking".

18 THE WITNESS: The same thinking with respect to his  
19 family in Canada in that it would require coordination with  
20 other entities beyond the FBI.

21 Q. Did you tell Mr. Kourani during this meeting that in order  
22 to pursue those immigration benefits with other parts of the  
23 U.S. Government and a foreign government, you would have to  
24 disclose the fact that he had met with the FBI?

25 A. Yes.

13QAAKOU4

Shannon - Direct

1 Q. Did Kourani ask you any questions about timing at this  
2 point in the interview?

3 A. Yes. He asked for a specific date as to when he could  
4 expect his family to be brought to the United States.

5 Q. Did you provide a specific date?

6 A. No. We explained that again based on the fact that we were  
7 not authorized to make any promises we couldn't guarantee that  
8 that would happen. And second that because there needed to be  
9 an assessment of the information that he was providing to  
10 determine whether or not the information justified his  
11 requested benefits, that it was impossible for us to give an  
12 exact timeframe for when that would happen.

13 Q. Was Kourani provided with an estimate about timing during  
14 this meeting?

15 A. Yes. We indicated that should Kourani be truthful and  
16 honest, provide valuable information, that we would try to  
17 followthrough with helping him by the end of summer 2017.

18 Q. At any point during that meeting did Kourani ask questions  
19 about any type of immunity?

20 A. No, he did not.

21 Q. Did Mr. Denbeaux ask any questions about any type of  
22 immunity during the March 23, interview?

23 A. He did not.

24 Q. Did either man, Kourani or Mr. Denbeaux, ask any questions  
25 about the potential for an arrest?

13QAAKOU4

Shannon - Direct

1 A. No.

2 Q. Did Mr. Kourani participate in the interview on March 23?

3 A. He did.

4 Q. How did the interview end?

5 A. The interview ended I believe Mr. Denbeaux had an  
6 appointment that afternoon and so he requested that we end the  
7 meeting so that he could get to his appointment.8 Q. Did the topic of promises come up at the end of the  
9 interview?10 A. Yes. At the end of the interview Special Agent Costello  
11 and I reiterated that while Mr. Kourani was sharing important  
12 information, we were not authorized to make any promises with  
13 respect to the information he was providing in exchange for any  
14 kind of benefit.15 Q. Did Mr. Denbeaux send any communications following the  
16 meeting?

17 A. He did. He sent a text message to Special Agent Costello.

18 Q. And did Special Agent Costello show you the message around  
19 the time he received it?20 A. He did. We were still en route back to the office when  
21 that text message came through.22 MR. BOVE: Could we take a look at Government Exhibit  
23 301 please.

24 (Pause)

25 Q. Is the top message here the message that Special Agent

13QAAKOU4

Shannon - Direct

1 Costello showed you on the day of the March 23, 2017 interview?

2 A. Yes, it is.

3 Q. Did you read it at the time?

4 A. I did.

5 Q. When you saw this message from Mr. Denbeaux I understand  
6 that you can't promise or guarantee, what did you understand  
7 him to mean?

8 A. I understood that to be a categorical unqualified statement  
9 about the fact that there were no promises.

10 THE COURT: This is Exhibit 301?

11 MR. BOVE: Yes, judge.

12 THE COURT: OK.

13 Q. I'd like to direct your attention to March --

14 THE COURT: Is that a evidence?

15 MR. BOVE: Yes, your Honor. It was offered through  
16 the testimony of Special Agent Costello.

17 THE COURT: Go ahead.

18 MR. BOVE: Thank you, judge.

19 Q. I would like to direct your attention to March 30th of  
20 2017. Did you have any plans with respect to Kourani that day?

21 A. Yes. We were supposed to meet with Mr. Kourani and  
22 Mr. Denbeaux on that date.

23 Q. Where was the meeting planned to take place?

24 A. Seton Hall Law School.

25 Q. Did you can go to Seton Hall on March 30, 2017?

I3QAAKOU4

Shannon - Direct

1 A. We did.

2 Q. What happened when you got there?

3 A. When we arrived at Seton Hall Mr. Kourani was not there.

4 Mr. Denbeaux reached out to his client over the phone and  
5 explained that Mr. Kourani had confused the dates and was not  
6 going to be able to attend the meeting that day because he was  
7 at work.

8 Q. Was anyone with you that day from the FBI?

9 A. Yes. I was with Special Agent Costello.

10 Q. So did you and Special Agent Costello talk to Mr. Denbeaux  
11 on March 30 about scheduling additional interviews?

12 A. We did. We explained to Mr. Denbeaux at that time that we  
13 were going to -- it was going to require a number of hours to  
14 collect all of the information that Mr. Kourani was going to be  
15 sharing with respect to his recruitment and operational  
16 activities.

17 Q. How if at all did Mr. Denbeaux respond to that information?

18 A. It was Mr. Denbeaux's suggestion that we try to schedule  
19 multiple meetings the following week to try to move at a faster  
20 pace in terms of covering information.

21 Q. Was Hezbollah discussed with Mr. Denbeaux on March 30?

22 A. Yes.

23 Q. What were some of the things that you and Special Agent  
24 Costello said to Mr. Denbeaux about Hezbollah?

25 A. We explained to Mr. Denbeaux that specifically Unit 910

13QAAKOU4

Shannon - Direct

1 possessed a worldwide capability and that there was a lot of  
2 information that Mr. Kourani had not yet shared with respect to  
3 his training recruitment and operational activity on behalf of  
4 that terrorist unit and that I believe we cited for  
5 Mr. Denbeaux two recent attacks that were tied to the ESO.

6 Q. What kinds of attacks?

7 A. Terrorist attacks.

8 Q. Did you and Special Agent Costello provide Mr. Denbeaux  
9 with an assessment of Kourani's disclosures up to that point on  
10 March 30, 2017?

11 A. We did. We told Mr. Denbeaux that there was a lot of  
12 information that Mr. Kourani had not yet shared.

13 Q. Did Mr. Denbeaux ask anything during this meeting about  
14 immunity?

15 A. He did not.

16 Q. Did he ask any questions during that meeting about  
17 confidentiality?

18 A. He did not.

19 Q. Now I'd like to direct your attention to April 3rd of 2017.

20 A. Yes.

21 Q. Did you meet with Kourani that day?

22 A. We did.

23 Q. Where?

24 A. Seton Hall Law School.

25 Q. Who was present for the interview?

13QAAKOU4

Shannon - Direct

1 A. Mr. Denbeaux, Mr. Kourani, Special Agent Costello and  
2 myself.

3 Q. How did this interview gain?

4 A. This interview began with Mr. Denbeaux handing out a copy  
5 of his notes.

6 Q. What, if anything, did Mr. Denbeaux say when he handed the  
7 note out?

8 A. Mr. Denbeaux indicated that these were his notes and his  
9 assessment of things as they stood so far, something along  
10 those lines.

11 Q. When he handed the notes out, what happened next?

12 A. Special Agent Costello and I picked up the notes and we  
13 stepped into the hall to review them.

14 Q. What were some of the things that you and Special Agent  
15 Costello discussed in the hall outside of the interview room?

16 A. So we gave the document a cursory review. We saw that  
17 there were items in the document that we had never discussed  
18 there were inaccuracies and we were confused to see what it was  
19 Mr. Denbeaux wanted with respect to the document. He hadn't  
20 posed any questions to us about the contents. And so Special  
21 Agent Costello and I agreed what that we would go back into the  
22 interview room, return Mr. Denbeaux's notes, answer any  
23 questions he had with respect to the documents, honestly and if  
24 not asked anything about the document we would continue with  
25 your interview of Mr. Kourani.

I3QAAKOU4

Shannon - Direct

1 Q. Did you go back to the room with Special Agent Costello?

2 A. We did. I did.

3 Q. When you did, did Mr. Denbeaux ask you any questions about  
4 the document?

5 A. He did not.

6 Q. What was done with the document that he had handed you?

7 A. Spatial Costello handed the document back to Mr. Denbeaux.

8 Q. Did you keep a copy of that document?

9 A. I did not.

10 Q. Did Mr. Kourani ask any questions about Mr. Denbeaux's  
11 notes?

12 A. He did not.

13 Q. What, if anything, did Kourani say at this point in the  
14 interview after you had come back into the room?

15 A. Mr. Kourani reiterated his immigration demands from the  
16 previous interview with respect to his father, sister and his  
17 children in Canada and he increased his requests to include an  
18 annual salary of 120,000 and also requested that we provided  
19 him with a house.

20 Q. You said he increased his requests. Were those new  
21 demands?

22 A. Those were.

23 Q. Did anyone promise Kourani any benefits in response the  
24 complaints that he made on April 3?

25 A. No.

I3QAAKOU4

Shannon - Direct

1 Q. Did you agree to do anything at this point?

2 A. No. Again, Special Agent Costello and I indicated that we  
3 lacked authority to make any promises on half of the bureau or  
4 the United States government and all that we could do was offer  
5 to try to help and pass his demands along should he be  
6 completely truthful, honest and again, if his information was  
7 valuable.

8 Q. After these events took place did Mr. Kourani participate  
9 in an interview on April 3, 2017?

10 A. He did.

11 Q. How did that interview end?

12 A. That interviewed ended with a discussion about his  
13 operational activities overseas on behalf of Unit 910.

14 Q. When you say "operational activities" just now, what do you  
15 mean by that?

16 A. Tasks or things that he did on behalf of the organization  
17 outside of the United States and outside of Lebanon.

18 Q. And in your view was Kourani forthcoming in response to  
19 questions about things that he did on behalf of Hezbollah  
20 outside of Lebanon?

21 A. No. And at that time we provided Mr. Kourani with a  
22 warning that lying to federal law enforcement officers was a  
23 crime and that he should consult with his attorney before  
24 continuing to have a conversation with us about this matter.

25 Q. How did the interview on April 3, 2017 end?

13QAAKOU4

Shannon - Direct

1 A. It ended with Mr. Kourani and Mr. Denbeaux reentering the  
2 interviewer conference room and Mr. Denbeaux stating that in  
3 his view one of two things was possible. Number one, either  
4 Mr. Kourani led agents to believe he possessed more valuable  
5 information than he actually did or in the alternative  
6 Mr. Kourani did in fact possess valuable information but was  
7 simply unprepared to share it at that time.

8 Q. Did Mr. Kourani say anything after Mr. Denbeaux made those  
9 representations?

10 A. Yes. Mr. Kourani adopted both of those notions and stated  
11 that he had some information that he was too scared to share  
12 with us and also that we had overrated his knowledge of Unit  
13 910.

14 Q. Now I'd like to direct your attention to April 5th of 2017.  
15 Did you interview Kourani that day?

16 A. Yes, I did.

17 Q. Where?

18 A. Seton Hall Law School.

19 Q. Who was present at the beginning of this meeting?

20 A. Mr. Denbeaux, Mr. Kourani, Special Agent Costello and me.

21 Q. Did Mr. Denbeaux say anything at the start of the  
22 interview?

23 A. Yes. Mr. Denbeaux attempted to reset the stage a bit as  
24 the previous interview ended on a more tense note. He  
25 indicated that his client was an American and wished to

I3QAAKOU4

Shannon - Direct

1 cooperate on that basis.

2 Q. Did you or Special Agent Costello make any promises at that  
3 point based on what Mr. Denbeaux had said?

4 A. No.

5 Q. After that exchange with Mr. Denbeaux, what happened next?

6 A. After that Mr. Kourani requested to conduct the interview  
7 one-on-one with me outside the presence of Special Agent  
8 Costello and his attorney, Mr. Denbeaux.

9 Q. Did Kourani say anything about why he had that preference?

10 A. Yes. He indicated that intelligence work was done 101 and  
11 that he was comfortable with me.

12 Q. How did you respond to this request from Mr. Kourani?

13 A. Special Agent Costello and I stepped into the hallway to  
14 discuss his request.

15 Q. What did you talk about with Special Agent Costello?

16 A. We talked about whether we thought there were any safety  
17 concerns that should preclude us from moving forward on a  
18 one-on-one basis, with whether we should even consider speaking  
19 to Mr. Kourani outside the presence of his attorney.

20 Q. What did you decide to do?

21 A. We decided we should continue with the interview one-on-one  
22 but reconfirm with Mr. Kourani that he wished to speak with me  
23 outside of the presence of Mr. Denbeaux.

24 Q. Did you take any safety precautions?

25 A. Yes. Mr. Kourani had requested that we change positions in

I3QAAKOU4

Shannon - Direct

1 the interview room. He wanted to sit on the opposite side of  
2 the table from where we had originally been positioned. And so  
3 in my new seat I made sure that I had a sight line to Mr --  
4 Special Agent Costello outside the interview room.

5 Q. Were you also armed that day?

6 A. I was.

7 Q. Were you armed in the interview?

8 A. I was.

9 Q. Was your firearm visible?

10 A. No, it was not.

11 THE COURT: So he had been sitting in one seat the  
12 previous meeting and now he wanted to sit in another seat?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: He made that request?

15 THE WITNESS: He requested that we change sides of the  
16 table.

17 Q. What was your assessment of the purpose of that request?

18 A. My belief was that this was an attempt by Mr. Kourani to  
19 control the interview setting.

20 Q. Did you interview Kourani alone on April 5th of 2017?

21 A. I did.

22 Q. How did you start the interview?

23 A. When I went back into the room to speak with Mr. Kourani I  
24 confirmed with him that he was comfortable speaking with me  
25 without defense counsel, Mr. Denbeaux, present.

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Shannon - Direct

1 Q. During the interview did Kourani say anything about having  
2 withheld information in prior interviews?

3 A. Yes. Mr. Kourani began by stating that he had previously  
4 withheld information about his first mission inside the United  
5 States on behalf of Unit 910.

6 Q. Did you describe that mission during the meeting on April  
7 10?

8 A. Yes.

9 Q. What were some of the things that he said about it?

10 A. Mr. Kourani had previously been tasked to collect  
11 information on military or intelligence type targets inside New  
12 York City. Mr. Kourani indicated that he had actually  
13 videotaped a location in New York City later determined to be  
14 the U.S. Armory in Manhattan and that he did so -- he  
15 videotaped this location on his cellphone.

16 Q. During the interview on April 5, did Kourani say anything  
17 about what he did with that video surveillance?

18 A. He did. He moved that video surveillance from his  
19 cellphone to a memory card and then transported that memory  
20 card on his person back to Lebanon where he handed that  
21 information off to his handler in 910 Fadi.

22 Q. When you used the term "handler", is that also a term that  
23 Kourani used?

24 A. Yes. He used the term handler/mentor.

25 Q. What did you understand that to mean?

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Shannon - Direct

1                   MR. SCHACHT: Your Honor, I object.

2                   THE COURT: Overruled.

3 Q. What did you understand Mr. Kourani to mean when he used  
4 the term "handler"?

5 A. I understood Mr. Kourani to be describing the person that  
6 he was in contact with within the organization 910 when he  
7 would return to Lebanon.

8                   THE COURT: He was the person in 910 to whom Kourani  
9 reported?

10                  THE WITNESS: Correct.

11                  THE COURT: And who directed his activities?

12                  THE WITNESS: Yes, your Honor.

13                  THE COURT: Did he tell you that he televised the  
14 meeting, which meeting did he tell you he televised?

15                  MR. BOVE: Your Honor, I believe the testimony is that  
16 Kourani said that he had taken video surveillance of a military  
17 installation in the city.

18                  THE COURT: OK.

19 Q. Is that correct, Special Agent Shannon?

20 A. Yes, sir.

21 Q. During that interview on April 5, 2017 did Kourani provide  
22 new information about interview training that he had received  
23 in Hezbollah?

24 A. Yes, he did. He spoke about one-on-one training that he  
25 received with respect to how to handle questions posed to him

13QAAKOU4

Shannon - Direct

1 by intelligence or law enforcement officers.

2 Q. And what did Kourani say about the main point of this  
3 one-on-one interview training?

4 A. Mr. Kourani indicated that he was coached in how to answer  
5 questions without revealing any weaknesses for the interviewer  
6 to leverage.

7 (Continued on next page)

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I3qrkou5

Shannon - direct

1 Q. What, if anything, did Kourani say about having deployed  
2 that strategy in prior entries by the FBI?

3 A. Mr. Kourani indicated that he had previously used this  
4 technique when he was interviewed by the FBI in 2016. By way  
5 of example, Mr. Kourani stated at that time he told inter-  
6 viewing agents that he was interested in immigration benefits  
7 for his wife and his brother Moustafa, when in reality those  
8 were not things that he cared about. That is how he prevented  
9 the interviewing agents from knowing about any weaknesses that  
10 he had.

11 Q. During this interview on April 5, 2017, did Kourani ask any  
12 questions about immunity?

13 A. He did not.

14 Q. Did he ask anything about the potential for being arrested?

15 A. He did not.

16 Q. Did you make any promises to Ali Kourani on April 5, 2017?

17 A. I did not.

18 Q. How did the interview end?

19 A. The interview ended with Mr. Denbeaux knocking on the door  
20 indicating that he had a standing appointment, and we agreed to  
21 terminate the interview at that time.

22 Q. Who was in the room at that point?

23 A. At that point Mr. Denbeaux and Special Agent Kourani  
24 re-entered the interview room.

25 Q. Did anyone address the topic of promises at that point in

I3qrkou5

Shannon - direct

1 the meeting on April 5, 2017?

2 A. Yes. As had become our customary practice, we reiterated  
3 to Mr. Denbeaux and Mr. Kourani that we could not make any  
4 promises with respect to benefits on behalf of the FBI or the  
5 United States government.

6 Q. You may have misspoken in your answer. Did you refer to  
7 Special Agent Kourani?

8 A. I'm sorry. Special Agent Costello. Apologies.

9 Q. Did you participate in an additional interview with Mr.  
10 Kourani after April 5, 2017?

11 A. I did.

12 THE COURT: Before we get into that, may we have a  
13 5-minute break?

14 MR. BOVE: Yes, your Honor.

15 MR. SCHACHT: Also, your Honor, I would like to  
16 discuss whenever you are ready the schedule. I have Mr.  
17 Denbeaux outside. I was hopeful we could get to him today, but  
18 I don't know whether that is realistic.

19 MR. BOVE: I have just a few questions left, Judge.

20 THE COURT: Ask those questions.

21 Q. Did you participate in additional interviews of Mr. Kourani  
22 after April 5, 2017?

23 A. I did. I met with Mr. Kourani again on April 14th and  
24 April 26th.

25 Q. During those additional interviews, was immunity discussed?

I3qrkou5

Shannon - cross

1 A. No.

2 Q. During those interviews were any promises made to Kourani?

3 A. No.

4 MR. BOVE: Nothing further.

5 THE COURT: How long will your cross-examination be?

6 MR. SCHACHT: 15 or 20 minutes.

7 THE COURT: Let's take a five-minute break.

8 (Recess)

9 THE COURT: Agent Shannon, you remain under oath.

10 Mr. Schacht, you may begin your cross-examination.

11 MR. SCHACHT: Thank you.

12 CROSS-EXAMINATION

13 BY MR. SCHACHT:

14 Q. Ms. Shannon, when you interviewed Mr. Kourani in this case,  
15 you frequently took notes, right?

16 A. I did.

17 Q. Then oftentimes you would convert those notes into a typed  
18 form 302, right?

19 A. That's true.

20 Q. Before coming here today, you reviewed, I assume, am I  
21 right, your notes and the 302s in preparation for testifying?

22 A. Yes.

23 Q. You were one of the agents responsible for this case, yes?

24 A. Yes.

25 Q. You are aware of the history and background, I assume, of

I3qrkou5

Shannon - cross

1 the investigation into Ali Kourani?

2 A. Yes.

3 Q. You are aware, are you not, that in 2016 FBI agents other  
4 than yourself spoke to my client?

5 MR. BOVE: Objection. Calls for hearsay.

6 THE COURT: No, it doesn't. Overruled.

7 Q. Are you aware that other agents spoke to my client before  
8 you did?

9 A. Yes, I am, sir.

10 Q. Are you aware that those agents offered money to my client  
11 in exchange for being an informant?

12 MR. BOVE: Objection.

13 THE COURT: Overruled.

14 Q. Are you aware of that?

15 A. I heard that from the agents who interviewed him, yes, sir.

16 THE COURT: Are these the 2016 interviews?

17 THE WITNESS: Yes, sir.

18 Q. Are you aware of the amounts of money that those agents  
19 offered or you just know generally that it was money?

20 A. I just know generally that it was money, sir. I'm not sure  
21 of the precise amount offered.

22 Q. You are familiar with the rules and procedures of FBI  
23 agents, I assume?

24 A. Yes.

25 Q. Is it legal for FBI agents to offer money to people they

I3qrkou5

Shannon - cross

1 want to be informants?

2 A. It's legal for FBI agents to pay people who are informants,  
3 people who are signed up and confidential human sources.

4 Q. "Confidential human source" is a technical term within the  
5 FBI, right?

6 A. That is.

7 THE COURT: What does it mean?

8 THE WITNESS: It means that it's a confidential human  
9 source, so it's a human, a person, an informant, somebody who  
10 is working --

11 THE COURT: For the FBI as an informant?

12 THE WITNESS: Correct, yes, your Honor.

13 THE COURT: Because they have special knowledge in  
14 what you are looking at or investigating?

15 THE WITNESS: Yes, your Honor.

16 Q. In the case of a confidential human source, the source or  
17 the informant is getting money or some other benefit in  
18 exchange for helping?

19 A. Sometimes.

20 Q. In this case you had a conversation on March 22nd, is that  
21 right, on the telephone with Mark Denbeaux?

22 A. Yes, I did, sir.

23 Q. Do you recall in that conversation that Mr. Denbeaux told  
24 you and Costello, Agent Costello, that Mr. Kourani was worried  
25 about his physical safety?

I3qrkou5

Shannon - cross

1 A. He was worried about people knowing that he was meeting  
2 with the FBI is what Mr. Denbeaux told us at that time, people  
3 in the community.

4 Q. You and Costello sought to allay that concern, is that fair  
5 to say?

6 A. Yes. We told him we would use our best efforts, yes.

7 Q. Didn't you in fact tell him that what was said would remain  
8 confidential?

9 A. No, sir. We told him the fact that he was meeting with the  
10 FBI, we would try to keep that confidential.

11 Q. When you say you would try to keep that confidential, did  
12 you use the word "try" with Mr. Denbeaux?

13 A. Yes. We said we would use our best efforts to keep  
14 confidential the fact that Mr. Kourani was meeting with the  
15 FBI.

16 Q. Do you recall in the 302 report that you prepared you used  
17 the phrase "remain confidential"?

18 A. Yes, sir.

19 Q. The report says remain confidential, but you didn't tell  
20 Mr. Denbeaux that it would remain confidential?

21 A. We told Mr. Denbeaux we would use our best efforts to have  
22 the fact that Mr. Kourani was meeting with us remain  
23 confidential, yes, sir.

24 Q. What did you mean by "best efforts"?

25 A. That we would do what we could to keep the fact that Mr.

I3qrkou5

Shannon - cross

1 Kourani was meeting with us confidential. By way of example,  
2 sir, we went to Seton Hall Law School to conduct the interview  
3 with Mr. Kourani. We didn't bring Mr. Kourani into FBI space.  
4 We didn't interview him in his neighborhood. We went to an  
5 area where he would be outside the purview of the Lebanese  
6 diaspora that he was concerned about.

7 Q. You had been to Canada and spoken to Mr. Kourani's  
8 relatives, isn't that right?

9 A. That is correct.

10 Q. Do you recall what year that was in?

11 A. I met with his wife Laila Abady in September of 2016. I  
12 also spoke with her in February of 2017.

13 Q. Do you recall testifying on direct examination that at the  
14 beginning of the March 24th meeting -- withdrawn. Was that  
15 meeting March 23rd or 24th, the in-person meeting with Mr.  
16 Kourani and Mr. Denbeaux?

17 A. It was an in-person meeting on March 23rd, 2017.

18 Q. Do you recall saying on direct examination that Mr.  
19 Denbeaux made some introductory remarks at the start of the  
20 meeting?

21 A. Yes, I recall saying that.

22 Q. Do you recall what the introductory remarks were?

23 A. The exact nature of Mr. Denbeaux's remarks, no.

24 THE COURT: In substance.

25 A. In substance, I believe Mr. Denbeaux explained why it was

I3qrkou5

Shannon - cross

1 that Mr. Kourani had requested a meeting, that he wanted to  
2 explain what it was that he was involved in.

3 Q. Do you recall Mr. Denbeaux saying that it was his  
4 understanding that what was said at the meeting would not be  
5 used against Mr. Kourani in court? Do you recall that?

6 A. No. That was not said.

7 Q. Do you recall testifying on direct examination that you and  
8 Agent Costello gave a kind of estimate to Mr. Kourani of when  
9 he might be able to get help with his family's immigration?

10 A. I do.

11 Q. Do you recall testifying on direct examination that you  
12 thought that you might be able -- you told him you might be  
13 able to get that help by the end of summer 2017?

14 A. Yes. We explained that if the preconditions discussed were  
15 met, we would try to do our best to help him in that time  
16 frame, yes.

17 Q. In fact, didn't you make much more specific statements  
18 regarding when you might be able to get that help?

19 A. Get the immigration benefits?

20 Q. Yes.

21 A. No.

22 Q. You don't recall that?

23 A. No, I don't recall that, sir.

24 Q. If you have the binder in front of you, the 3500 binder,  
25 when you have that, please take your time and look at 3502-06,

13qrkou5

Shannon - cross

1 specifically page 3 of that document. Whenever you have a  
2 chance.

3 THE COURT: She's had a chance by now.

4 Q. Do you have that in front of you?

5 A. Yes.

6 THE COURT: What page?

7 MR. SCHACHT: 3502-06, page 3 of 14.

8 A. Yes.

9 Q. Does that refresh your recollection at the top of that  
10 document about what time frame you made certain statements  
11 about regarding the immigration benefits?

12 A. No. We told him by the end of summer of 2017.

13 Q. Whose notes are these?

14 A. These are my notes.

15 Q. Do you see where it says "Laila four weeks"?

16 A. Right.

17 Q. Isn't it true that you told Mr. Kourani that it was  
18 possible that you could get her to the United States within  
19 four weeks?

20 A. That is not true. Next to that note it says, "Estimations  
21 based on end of summer time frame." We never indicated any  
22 time frame for bringing Laila, his estranged spouse, into the  
23 United States. That was not one of Mr. Kourani's requests in  
24 fact. He only mentioned his children.

25 Q. Do you remember what my question was?

I3qrkou5

Shannon - cross

1 A. I do.

2 Q. What was my question?

3 A. If we provided a precise time frame. We did not.

4 Q. That was actually not my question. Now I will ask you my  
5 question. What does that mean, "Laila four weeks"?

6 A. That he had not seen Laila in more than four weeks? I have  
7 no idea what that means.

8 Q. They are your notes.

9 A. Correct.

10 Q. You have no idea what your notes mean?

11 A. I have no idea what the "four weeks" next to "Laila" means.  
12 It was one of Mr. Kourani's statements, not mine.

13 Q. When your notes say "Kids near end of summer," what did you  
14 mean by that?

15 A. Those were the requests of Mr. Kourani, that he would want  
16 his kids here as quickly as possible. We had provided  
17 estimations based on the end of the summer.

18 Q. When you say estimations with an S on the end, that's  
19 plural, right?

20 A. Correct.

21 Q. Isn't it true that where it says "end of summer," four  
22 weeks and six weeks, that these were the estimations that you  
23 gave him?

24 A. No, we did not provide precise estimations in a weeks time  
25 frame.

13qrkou5

Shannon - cross

1 Q. At the top where your notes say "Ali to Canada six weeks,"  
2 what does that mean?

3 A. My recollection is that those were Mr. Kourani's requests  
4 at that time.

5 THE COURT: Give me the context. What was being  
6 discussed?

7 THE WITNESS: Mr. Kourani was asking about a time  
8 frame for when he could expect his children to be brought to  
9 the United States or have some sort of visitation with his  
10 children and also immigration benefits for his father and  
11 sister, who were both in Lebanon at that time.

12 THE COURT: What did Kourani want to do? Visit  
13 Canada?

14 THE WITNESS: He wanted to see his children, so either  
15 have them brought to the United States, which was his  
16 preference, or somehow visit them in Canada, which was  
17 apparently an obstacle due to his relationship with his wife at  
18 the time and her family.

19 THE COURT: Did he discuss with you how you could fix  
20 that problem of a marital dispute?

21 THE WITNESS: He did. Well, your Honor, he didn't ask  
22 me to fix his marital dispute. He was asking about how it was  
23 that we could potentially facilitate a visitation with his  
24 children or bring his children to the United States.

25 THE COURT: Was the problem a no-fly list?

13qrkou5

Shannon - cross

1           THE WITNESS: I don't know that that was the principal  
2 problem at that time, your Honor. There had been an earlier  
3 incident in Lebanon in August of 2016 in which his wife took  
4 their two children and fled to Canada.

5           THE COURT: Go ahead, Mr. Schacht.

6 BY MR. SCHACHT:

7 Q. Isn't it true that my client wanted his relatives there  
8 immediately? Right? That was his hope, right?

9 A. He wanted them there as soon as possible, I suppose. Yes,  
10 that was his hope.

11 Q. Yes, his hope. He told you his hope. I'm not asking you  
12 to read his mind. He said he wanted it immediately, right?

13 A. He said as soon as possible.

14 Q. Right. So these estimates here are not estimates that he  
15 created, are they?

16 A. The week references, yes. We never gave Mr. Kourani any  
17 estimation in weeks.

18 Q. On his own he said, my sister in four weeks and my children  
19 end of summer? That's your testimony, that he said that?

20 A. That he was referencing a time period in which he would  
21 want his demands met by, yes.

22           THE COURT: Is Laila his sister?

23           MR. SCHACHT: Yes.

24           THE WITNESS: Laila is both the name of his sister and  
25 his wife, your Honor.

I3qrkou5

Shannon - cross

1 Q. He said, I demand or I want Laila here within four weeks,  
2 and you wrote that down?

3 A. We wrote down, yes, what Mr. Kourani was requesting by way  
4 of benefits, as we told him we would.

5 Q. Next, where it says "father," what does that say?

6 A. "Ten-year ban."

7 Q. What does that mean?

8 A. He's been gone 12 years. Mr. Kourani indicated that his  
9 father had self-deported previously due to the fact that he had  
10 engaged in a fraudulent or fake marriage here in the United  
11 States.

12 Q. He wanted your help in getting his father back, right?

13 A. That's correct.

14 Q. But he didn't have a demand for a time period for his  
15 father?

16 A. He was asking that his father and sister be brought over  
17 together.

18 Q. Where it says "Laila four weeks," in reality he requested  
19 his father and Laila in four weeks, is that your testimony?

20 A. He always requested benefits with respect to Laila and his  
21 father, Mohammed, together, yes.

22 Q. I see next to this you have written, "No promises made.  
23 Estimations based on end of summer time frame but can't make  
24 promises guarantee." Is that what that says?

25 A. Yes.

13qrkou5

Shannon - cross

1 Q. When did you add in those lines that I just read?

2 A. All of these notes were taken on these pages contemporaneously with when we were having the conversations in the  
3 interview room.

4 THE COURT: I haven't seen the original, but it appears that the writing on the right side is with a different  
5 instrument than the writing on the left side.

6 THE WITNESS: I was taking notes throughout the course  
7 of that interview.

8 THE COURT: Same pencil or same pen?

9 THE WITNESS: I believe so, unless we paused and somehow I picked up a different pen at some point.

10 THE COURT: Does it indicate to you that the writing on the right is darker than the writing on the left?

11 THE WITNESS: It doesn't appear that way to me, your Honor. My notes are quite sloppy.

12 THE COURT: It's all relative. It depends on who is looking at it and who is making it. They appear to me to have a firmer line and a darker tone than the writing on the left-hand side. Do you agree with that?

13 THE WITNESS: I don't see that, your Honor, no.

14 THE COURT: Go ahead, Mr. Schacht.

15 BY MR. SCHACHT:

16 Q. Do you recall on your direct examination you mentioned that  
17 you got the one-page typewritten set of notes from Mr. Denbeaux

I3qrkou5

Shannon - cross

1 that then you and Agent Costello reviewed?

2 A. I do.

3 Q. Is it your testimony that when you read that on that day,  
4 you were surprised, to put it mildly? Is that fair to say?

5 A. Yes.

6 Q. That virtually nothing in that document did you agree with?

7 A. There were items in the document that we did not agree with  
8 or that we had never discussed with Mr. Denbeaux.

9 Q. For example, where Mr. Denbeaux says that there is going to  
10 be no prosecution, that obviously is something you disagree  
11 with?

12 A. Correct.

13 Q. You hadn't promised that?

14 A. Correct, we had not promised that.

15 Q. In fact, you hadn't even discussed that?

16 A. We had not discussed that.

17 Q. What was the reason that you didn't say to Mr. Denbeaux, we  
18 disagree or I disagree with this?

19 A. Mr. Denbeaux never asked us to adopt that document or  
20 whether we agreed to the information contained in the document.  
21 So there was no question posed to answer.

22 Q. He simply handed it to you and said no words?

23 A. He handed the document to us and said these were his notes  
24 and they were his assessment of things so far.

25 Q. Then you left the room, read them, and returned them, and

I3qrkou5

Shannon - cross

1 there was no conversation at all about them?

2 A. That's correct.

3 Q. Your testimony is you didn't keep a copy, right?

4 A. I did not keep a copy, no, sir.

5 THE COURT: Did Costello?

6 THE WITNESS: To my knowledge, no, he did not keep a  
7 copy.

8 Q. You did not discuss with any of the Assistant U.S.  
9 Attorneys involved in the case those notes?

10 A. No.

11 Q. At that time.

12 A. No.

13 Q. Do you recall Mr. Kourani asking for the FBI's help in  
14 getting a job?

15 A. I do recall that.

16 Q. Do you recall him telling you that he's a trained engineer  
17 and he'd like to get a job in engineering?

18 A. I recall him indicating that he had a degree in engineering  
19 and that that was a field that he was interested in.

20 Q. Were you aware that he had sent his résumé to Agent  
21 Costello?

22 A. I believe yes, I do recall Special Agent Costello  
23 mentioning that to me at one point.

24 Q. Isn't it the case that repeatedly throughout the five  
25 in-person meetings my client expressed concern that anyone

13qrkou5

Shannon - redirect

1 would learn that he was talking to you, that that was a topic  
2 that he brought up frequently?

3 A. I don't know that he brought it up every meeting, but he  
4 did bring it up, yes, sir.

5 Q. Didn't you seek to reassure him by repeating the statement  
6 that you made previously about confidentiality to Mr. Denbeaux?

7 A. I'm sorry. Can you repeat that question?

8 Q. Didn't you tell Mr. Kourani, in response to him mentioning  
9 his worry, that what would be said was confidential? Do you  
10 recall telling him that?

11 A. No, we did not tell him that what he said would be  
12 confidential.

13 Q. You told him that the fact that he was meeting with you  
14 would be confidential?

15 A. With respect to members of the community knowing that he  
16 was meeting with us, yes. That we would try to keep that  
17 confidential, the fact that he was meeting with us, yes.

18 MR. SCHACHT: I have no further questions. Thank you.

19 THE COURT: Redirect?

20 MR. BOVE: Yes. Thank you.

21 REDIRECT EXAMINATION

22 BY MR. BOVE:

23 Q. Special Agent Shannon, you were asked some questions on  
24 cross-examination about instances in 2016 when you were told  
25 Mr. Kourani was offered money by the FBI?

I3qrkou5

Shannon - redirect

1 A. That's correct.

2 Q. Was Mr. Kourani offered any money in 2017?

3 A. No, he was not.

4 Q. You were asked some questions about the term "confidential  
5 human source" during cross-examination. Do you recall those  
6 questions?

7 A. I do.

8 Q. Did that term ever come up during the 2017 interviews of  
9 Mr. Kourani?

10 A. No.

11 Q. Did that term ever come up during the 2017 communications  
12 with Mr. Denbeaux?

13 A. No.

14 Q. At any time did you or Special Agent Costello offer to let  
15 Ali Kourani sign a confidential human source agreement?

16 A. No.

17 Q. At any time did Ali Kourani or Mr. Denbeaux request such an  
18 agreement?

19 A. No.

20 Q. You were asked some questions about your use of the term  
21 best efforts in connection with the March 22, 2017 call with  
22 Mr. Denbeaux. Do you recall those questions?

23 A. I do.

24 Q. Did you use that term during the call because it was  
25 possible that despite your efforts, someone might find out

I3qrkou5

Shannon - redirect

1 about the meetings?

2 A. Of course.

3 Q. What about students at Seton Hall?

4 A. Was it possible that they could find out about the  
5 meetings? Certainly. Mr. Denbeaux was a law professor there.

6 Q. What about the Department of Homeland Security?

7 A. Absolutely. We explained to Mr. Kourani that in fact the  
8 immigration benefits he was requesting required us to have a  
9 conversation with Department of Homeland Security and actually  
10 disclose the fact that we are meeting with him and about the  
11 information that he was providing.

12 Q. What about the Canadian government?

13 A. Also with respect to the Canadian government: when it came  
14 to Mr. Kourani's two children who were in Canada, that was  
15 something that the United States government would have to  
16 discuss with a foreign government, in this case the Canadian  
17 government.

18 Q. You were asked some questions more generally about the  
19 discussion of confidentiality during that call. Do you recall  
20 those questions?

21 A. Yes.

22 Q. Special Agent Shannon, is there anything necessarily  
23 inconsistent between confidentiality and a criminal  
24 prosecution?

25 A. No, there is not.

13qrkou5

Shannon - redirect

1 Q. Does this case provide an example of how that can work?

2 THE COURT: The witness is not -- I don't know if Mr.  
3 Schacht objects or not.

4 MR. SCHACHT: He can make the argument very nicely,  
5 I'm sure, in a submission.

6 THE COURT: Do you object?

7 MR. SCHACHT: Yes, Judge.

8 THE COURT: Sustained.

9 Q. Did you participate in a conversation about the unsealing  
10 of the complaint in this case?

11 A. Yes.

12 Q. What was the driving factor in the decision to unseal the  
13 complaint in this case?

14 A. Lack of candor on the part of Mr. Kourani.

15 MR. BOVE: Nothing further, Judge.

16 THE COURT: Anything further, Mr. Schacht about the  
17 new matters that were brought up?

18 MR. SCHACHT: I have no recross-examination.

19 THE COURT: Thank you very much.

20 (Witness excused)

21 THE COURT: Does the government rest?

22 MS. HOULE: Your Honor, I note that we may seek to  
23 admit additional exhibits during the cross of Mr. Kourani. We  
24 may have additional exhibits to offer, but we have no further  
25 witnesses to call. I noted, your Honor, that the 200 series

I3qrkou5

Denbeaux - direct

1 and the 800 series we have not yet admitted into evidence. We  
2 may seek to admit them through the cross of Mr. Kourani. To  
3 the extent that he doesn't testify, we will otherwise seek to  
4 admit them so we can provide post-hearing briefing on the  
5 contents.

6 THE COURT: What is the nature of the documents?

7 MS. HOULE: They are his emails and his text messages.

8 THE COURT: Are you offering them as the case in chief  
9 or as impeachment?

10 MS. HOULE: Impeachment, your Honor.

11 THE COURT: Do you rest?

12 MS. HOULE: Yes.

13 MARK DENBEAUX,

14 called as a witness by the defendant,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SCHACHT:

18 Q. Mr. Denbeaux, how old are you?

19 A. 74.

20 THE COURT: That's young.

21 THE WITNESS: I agree, your Honor.

22 Q. What kind of work do you do for a living?

23 A. I teach law school at Seton Hall Law School.

24 Q. What kind of classes do you teach?

25 A. Usually a first-year course, a basic first-year course,

I3qrkou5

Denbeaux - direct

1 normally evidence, and four of the last ten years I've been  
2 teaching seminars on expert witnesses.

3 Q. Do you practice law as well as being a professor?

4 A. I don't know about as well, but I do practice law.

5 Q. What kind of law practice do you have?

6 A. Currently I'm representing two people who are detained in  
7 Guantanamo. Before that, I have had a fairly disparate  
8 practice because I can take cases as I wish as a law professor.  
9 Some criminal, civil, civil rights.

10 THE COURT: Do you make these cases a clinic for your  
11 students?

12 THE WITNESS: Not usually. It is hard to make it  
13 educational for them, for course credit anyway.

14 Q. Do you recall meeting Ali Kourani?

15 A. Yes.

16 Q. About when did you first meet Ali Kourani?

17 A. Some months before I first contacted the FBI. I'm not  
18 quite sure when that was.

19 THE COURT: Give him a reference date, Mr. Schacht.

20 Q. You contacted the FBI in March of 2017.

21 A. Probably then the late fall, early December before that.

22 Q. When you contacted the FBI in March of 2017, what, if  
23 anything, was your goal?

24 A. I wanted to introduce him to the FBI so that he could give  
25 them some information that he understood they wanted, and he

I3qrkou5

Denbeaux - direct

1 wanted in exchange some assistance for them with his family.

2 Q. Do you recall the first time that you spoke to any FBI  
3 agents about Ali Kourani?

4 A. I think I made several phonecalls that did not go through  
5 to the right person. And then I received a phonecall back  
6 probably in February of that year from -- I'm not sure of the  
7 name of the person who called me back.

8 Q. Did you ever eventually speak to either Agent Costello or  
9 Agent Shannon?

10 A. Yes, I did.

11 Q. Do you recall the first time you spoke to them?

12 A. I spoke to one of them on the phone because they wanted to  
13 make sure that my client really wanted to cooperate and talk  
14 openly to them, and I assured them that he did.

15 Q. That was in the first conversation you had?

16 A. Yes, the first time we had a conversation, not the first  
17 phonecall.

18 Q. With regard to the phonecall, do you recall the first  
19 phonecall you had with either of them or both of them?

20 A. Yes, I do.

21 Q. Could you tell the judge what you said and what they said.

22 A. I told them that my client was willing to talk to them, to  
23 help them. He believed the FBI thought he had information that  
24 they wanted, and he definitely believed the FBI could help him  
25 with his father, his sister, and especially his children.

I3qrkou5

Denbeaux - direct

1 Q. Help in what way with those people?

2 A. From the very first time I met him, before we called the  
3 FBI, he'd wanted assistance getting his children from Canada  
4 back into the United States. They were U.S. citizens. He  
5 wanted them there. He was distressed about the circumstances  
6 they were in. That's what he came to me to talk about the very  
7 first time.

8 Q. In that conversation with the FBI, was there any conver-  
9 sation on the FBI agent's part about what, if anything, they  
10 might be able to offer?

11 A. No, in the phonecall there wasn't. I just assured them  
12 that he was willing to talk openly and that if they wanted to  
13 meet with him, we could make those arrangements.

14 Q. But there were no promises about immigration benefits at  
15 that time?

16 A. No, nor any promises that he had anything of value. But I  
17 think we assumed he did.

18 Q. When you say "we," who are you referring to?

19 A. I think the FBI agents specifically believed that he had  
20 lots of information about it. I was less sure of that.

21 Q. With regard to that conversation still, was there any  
22 discussion either by you or the FBI about the topic of  
23 confidentiality? If you recall.

24 A. I don't recall what was said about confidentiality in the  
25 phonecall before we met.

I3qrkou5

Denbeaux - direct

1 Q. After that phonecall, you arranged a meeting, shortly  
2 thereafter?

3 A. Yes, I did.

4 Q. Did that meeting occur?

5 A. Yes, it did.

6 Q. If we could call that "the first meeting." At that first  
7 meeting, how did it begin?

8 A. It began by my explaining to them what I thought was fully  
9 understood based on the brief conversation we had, which was  
10 that he was prepared to cooperate and give them information in  
11 exchange for their doing all that they could to help him with  
12 his family, especially his children.

13 In the course of that very first meeting, I made it  
14 very clear that he was there fully cooperating, he was there to  
15 give whatever information he had, that he was not a suspect, a  
16 subject, a target, that there were no plans to prosecute him,  
17 and that he was there just to provide assistance. I even said,  
18 I think, assistance that he wanted to give to America to  
19 protect them, if he had anything.

20 Q. What you just said, that was all verbal at that time?

21 A. Yes, but it was quite an extensive conversation.

22 Q. What, if anything, do you recall they said at that time?

23 A. I believe they said thank you very much, and we discussed a  
24 little bit how it was going to proceed. I think at some point  
25 very early on there the kids' concern was expressed by me,

I3qrkou5

Denbeaux - direct

1 which was confidentiality was crucial. He believed he was  
2 giving information that might be very dangerous for him and for  
3 his family, and he wanted assurances that everything would be  
4 held in confidence. They absolutely agreed to that.

5 Q. After that beginning part of the meeting where these things  
6 were discussed, then they proceeded to ask questions, I assume,  
7 of him?

8 A. Yes. They just sat there and started asking questions, and  
9 he would give answers, and they would respond. It was a  
10 colloquy and an open and relaxed communication. Everything  
11 seemed to me to be moving along. I assumed they were  
12 appreciating what they were getting. We had frequent  
13 discussions about how he would get what he was seeking from  
14 them. At every meeting that would come up.

15 Right away they talked about it would be difficult to  
16 get the children back from Canada in the sense that that would  
17 take time. As I recall, not Agent Costello, said at one point,  
18 well, it's going to be harder to get the children from Canada  
19 but that we would be able to get them by August, which seemed a  
20 long time away at that time in one sense and seemed to be very  
21 reassuring to my client at the same time.

22 Q. When you say August, do you mean August of 2017?

23 A. Yes.

24 Q. Was there any discussion about the sister and the father,  
25 who you mentioned earlier?

I3qrkou5

Denbeaux - direct

1 A. Oh, yes.

2 Q. What was the discussion at the first meeting about the  
3 sister and the father?

4 A. The first thing was the father's situation was a little  
5 more complicated because he had been in the United States and  
6 had returned to Lebanon apparently in a way that made  
7 immigration issues complicated. I don't know anything about  
8 immigration law, but that's what Agent Costello said.

9 As to the sister, the assurance was given that they  
10 could easily get the sister here but that they thought they  
11 would want to do the father and the sister at the same time.  
12 That seemed to be okay with my client.

13 Q. Was there anything unusual, or do you recall how the  
14 meeting ended, or did it just end by planning the next meeting?

15 A. I think it was ending in a very friendly way. Time was up.  
16 Everybody was tired. I think we had spent quite a few hours  
17 talking. They said thank you very much, we appreciate what you  
18 have given, we would like to talk to you further, is that  
19 possible. I think we agreed yes, and they said they would work  
20 out the next meeting time with me.

21 Q. Did you in fact work out a second meeting?

22 A. Yes. I think we did it by phone.

23 Q. Roughly how much later was the second meeting, if you  
24 recall?

25 A. I'm going to say approximately a week or ten days later.

I3qrkou5

Denbeaux - direct

1 That seems to be the space between each meeting.

2 Q. What, if anything, happened at the beginning of the second  
3 meeting?

4 A. At the beginning of the second meeting I began with a  
5 document that I had prepared just because I wanted to make sure  
6 all the facts were agreed upon in writing. I prepared that  
7 document. For me the crucial part of the document was the fact  
8 that he wasn't a target, wasn't a suspect, he wasn't charged  
9 with a crime, no expectation that that was happening. He was  
10 there just to cooperate.

11 I spent most of the time discussing the arrangements  
12 in the conversation about how the FBI would be able to assist  
13 him. Because, as the first conversation had gone on, it was  
14 true that the assurance was have the children from Canada by  
15 the end of August.

16 It was also true things were being said such as why  
17 didn't I represent him in a domestic action so that would help  
18 get the children back. I said I don't do that. And besides,  
19 that wouldn't do it. See, we had various things where he say  
20 okay, we'll check with our boss, we'll bring the higher-ups,  
21 this is very helpful, what you have given, but we may need  
22 more, etc. That was the nature of the conversation.

23 The really important part of my document, I thought,  
24 was explaining the communications and the difficulties that  
25 people were having in how simply to accomplish what it was that

I3qrkou5

Denbeaux - direct

1 brought him there.

2 Q. When you handed this document to the FBI agents at the  
3 meeting, what, if any, conversation was there about the  
4 document?

5 A. I didn't think there was any surprise. I handed it I  
6 believe to Mr. Costello, who looked at it. It seemed pretty  
7 clear to me that we had all agreed in advance that he wasn't a  
8 target, suspect.

9 THE COURT: No. What did they say?

10 THE WITNESS: I apologize, your Honor.

11 THE COURT: You're an evidence professor.

12 THE WITNESS: I know. Here now it's different.

13 THE COURT: You're a witness. The question was what  
14 did they say when they gave you the document.

15 A. They said thank you, looked at the document, turned and  
16 handed it to the other agent. I forget her name. She looked  
17 at it, opened her notebook, and put it in it, and we all moved  
18 on.

19 Q. When you say you all moved on, there was no other conver-  
20 sation about the document?

21 A. No.

22 Q. What happened next at the meeting?

23 A. They continued asking him questions and seeking information  
24 about a variety of things, many things.

25 Q. Do you have any memory of what happened or how the second

I3qrkou5

Denbeaux - direct

1 meeting ended?

2 A. The same way. Every time Mr. Kourani would say, okay, now  
3 what's going to happen with my children, what's happening with  
4 my father, how are we going to deal with that. They'd say  
5 we'll get back to you on the details of that, the final  
6 decision isn't up to us, but we will present it and we'll be  
7 back to you the next time we talk.

8 Q. How did you react, if at all, to what they said about we  
9 need to talk to our higher-ups and we'll get back to you?

10 A. I can't remember each time, but I would point out to them  
11 that we were there, he was going to cooperate and give them  
12 everything he had, and we were there in exchange for their  
13 doing their very best efforts to assist him with some or all of  
14 these circumstances.

15 Q. Do you recall ever sending Agent Costello a text message  
16 where you said there's no promises?

17 A. I think that came up several times, text and in person.

18 Q. Say again.

19 A. Yes, I recall sending that.

20 Q. You recall sending the text message?

21 A. Yes, I do.

22 Q. When you sent that text message saying there's no promises,  
23 what did you mean by that?

24 A. It was dealing with the only subject he and I ever talked  
25 about in this regard, which was whether he would be able to get

I3qrkou5

Denbeaux - direct

1 the children back from Canada or not. He repeatedly said that  
2 he would be working with his higher-ups, it would be hard, I'm  
3 making no promises, but I will do my very very best. That  
4 subject came up frequently, and it always was the same way,  
5 which was it was going to be difficult but they could do it.  
6 At no time did they ever say it would take longer than getting  
7 the children back by August.

8 Q. When Agent Costello said to you regarding the children,  
9 that there's no promises, was there any doubt in your mind that  
10 there were other promises made, not about the immigration,  
11 about whether or not he would be prosecuted?

12 MR. BOVE: Objection.

13 THE COURT: Sustained to form. Change the form.

14 Q. Other than the immigration, were there any promises made to  
15 you by the agents?

16 A. Yes. As I think I mentioned, they repeated discussed the  
17 need for confidentiality, that he would discuss his concerns  
18 about it going public. There were discussions. I think Agent  
19 Costello said, you have never heard of any of these other  
20 people that we have been asking about. That proves we are  
21 keeping confidences. We will keep your confidences the same  
22 way.

23 Q. Did you ever have any disagreements or arguments with the  
24 agents?

25 A. I think a couple of times -- no, I don't actually recall

I3qrkou5

Denbeaux - direct

1 any arguments or disagreements. He might have said he  
2 wasn't -- no, there weren't any.

3 Q. What were you about to say? He might have said what?

4 A. I think there was some discussion about how much Mr.  
5 Kourani knew and they believed he knew more than he seemed to  
6 know and certainly more than he said. They would suggest  
7 things like, well, if we're going to have to do the heavy lift  
8 to get your children here, we are going to need more than you  
9 have given us so far. We would have discussions at the end of  
10 the meeting which said -- it began always with that assistance  
11 being expected, and there was no condition that he had to give  
12 information of some quality or quantity.

13 Q. Later on, when you learned that he was arrested, Mr.  
14 Kourani was arrested, what, if anything, was your reaction?

15 A. I was shocked, betrayed. I was really, really distressed  
16 because it seemed to me I must have engaged in some form of  
17 malpractice or incompetence.

18 THE COURT: I don't think that is really competent  
19 evidence. You are allowed to object, Mr. Bove or Ms. Houle,  
20 whoever is doing it.

21 MR. BOVE: Thank you, Judge.

22 Q. Why were you shocked?

23 A. Because they had promised --

24 THE COURT: It's the same issue. Do conversations,  
25 Mr. Schacht.

13qrkou5

Denbeaux - cross

1 Q. Did you contact or did you have contact --

2 THE COURT: Did you express your shock in any way?

3 Q. Did you express your shock?

4 A. Yes.

5 Q. To any members of the government?

6 A. Yes.

7 THE COURT: What did you say?

8 THE WITNESS: An Assistant U.S. Attorney called me to  
9 tell me -- he offered they could come down so they could have  
10 further conversations with Mr. Kourani. I said I'm not  
11 prepared to do that. You folks promised me this would be in  
12 confidence, this wouldn't happen. And I said I was ashamed by  
13 what my government had done.

14 THE COURT: What did the assistant say?

15 THE WITNESS: He said, well, if you're going to talk  
16 that way, then this conversation is over.

17 MR. SCHACHT: Thank you. I have no other questions.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 BY MR. BOVE:

21 Q. Mr. Denbeaux, you're an extremely experienced attorney,  
22 correct?

23 A. I'm also a brilliant one and a good father and a good  
24 husband, yes.

25 MR. BOVE: So stipulated, Judge.

I3qrkou5

Denbeaux - cross

1                   THE COURT: We don't know about being a good husband  
2 and a good father. We will have to take evidence on that.

3                   THE WITNESS: That's the more important part.

4 Q. You graduated from NYU in 1965?

5 A. Yes, I did, 1968.

6 Q. You are admitted to the bar of New York?

7 A. Yes.

8 Q. Also the bar of New Jersey?

9 A. Yes.

10 Q. You are admitted to the bar of this court?

11 A. I believe so.

12 Q. Over the course of your career, you have extensive  
13 experience practicing criminal law, correct?

14 A. Some criminal law.

15 Q. Just some?

16 A. Well, I never had lots of cases, but I would have selected  
17 ones with some interest to me and some significance.

18 Q. You are one of the founding members of South Bronx Legal  
19 Services, correct?

20 A. Yes, I was.

21 Q. You were also citywide coordinator for Community Action for  
22 Legal Services?

23 A. Yes, I was.

24 Q. You had a law firm in New Jersey with your family?

25 A. Actually, the law firm is my son and my former wife.

I3qrkou5

Denbeaux - cross

1 Q. Are you not listed currently?

2 A. I think I'm of counsel, but I'm not a partner or involved  
3 in any significant way.

4 Q. If I could finish the question. I'm sorry. Are you not  
5 listed today as a member of that law firm on the firm's  
6 website?

7 A. I don't know. If so, I'm of counsel.

8 Q. You are also a law school professor?

9 A. Yes, I am.

10 Q. You are one of the most senior faculty members at Seton  
11 Hall?

12 A. Yes.

13 Q. You have been there since 1972?

14 A. Yes.

15 Q. Taught courses in constitutional law?

16 A. Yes.

17 Q. Criminal law?

18 A. Yes.

19 Q. Evidence?

20 A. Yes.

21 Q. Contracts?

22 A. Yes.

23 Q. And professional responsibility?

24 A. Yes.

25 Q. At Seton Hall you founded the Center for Policy Research?

I3qrkou5

Denbeaux - cross

1 A. Yes, I did.

2 Q. That was in 2006, approximately?

3 A. I believe so.

4 Q. You have published a significant amount of writing, fair to  
5 say?

6 A. Yes.

7 Q. In connection with your work at the center for policy and  
8 research, you are familiar with federal criminal terrorism  
9 statutes, correct?

10 A. Some of them.

11 Q. Are you familiar with the statute prohibiting providing  
12 material support to a designated foreign terrorist organ-  
13 ization?

14 A. I have never had a client charged with that, but I've heard  
15 of it. I have never read the statute.

16 Q. Do you consider Mr. Kourani a client?

17 A. Yes.

18 Q. Are you aware that he is currently charged with violating  
19 that statute?

20 A. I am now.

21 Q. You have extensive experience in national security cases,  
22 right?

23 A. No. I have extensive experience with people detained in  
24 Guantanamo without a trial or hearing.

25 Q. You consider those national security cases?

I3qrkou5

Denbeaux - cross

THE COURT: Let's not fence, folks. It is not relevant to what we are doing.

Q. Have you represented in habeas proceedings --

THE COURT: What's that got to do with this case?

MR. BOVE: Mr. Denbeaux is handling the representation of one of those detainees that occurred at exactly the same time as --

THE COURT: So what?

MR. BOVE: Because the tactics used were strikingly similar, Judge. They will demonstrate that Mr. Denbeaux threatened to go to the media in both cases.

THE COURT: So what?

MR. BOVE: Mr. Denbeaux here has testified that there was a promise of confidentiality that he relied upon when in fact --

THE COURT: That's what I'm interested in, what it means. I'm not interested in any cases in Guantanamo in this case. Sharpen your questions, please, Mr. Bove. Otherwise, I'll just stop.

(Continued on next page)

13QAAKOU6

Denbeaux - Cross

1 BY MR. BOVE:

2 Q. You threatened Special Agent Costello in May of 2017 that  
3 you would take Mr. Kourani's case to the media if the benefits  
4 he was seeking were not provided?

5 A. No, I didn't say that. But I did say if they betrayed the  
6 promises that they made to me that I would make it clear to the  
7 many people in the profession that I had been betrayed and that  
8 I had been hurt and that they were not trustworthy and I may  
9 have included the media but it was going to include lawyers  
10 that I knew.

11 Q. You described the circumstances in which the investigation  
12 was handled?

13 A. No. The promises that I was made that were made to me that  
14 would have led me to allow a man to come in and talk openly and  
15 freely to the FBI agents because they'd assured me that it  
16 would be in confidence, he wouldn't be prosecuted and he  
17 wouldn't be charged. That's what I was upset about.

18 Q. Now, you knew that agents sometimes make recommendations  
19 about whether criminal charges are appropriate, right?

20 A. I presume so.

21 Q. Those are only recommendations because prosecutors make the  
22 final decisions, correct?

23 A. I presume so.

24 Q. At no time prior to the arrest of Ali Kourani did you talk  
25 to a prosecutor relating to this case?

13QAAKOU6

Denbeaux - Cross

1 A. No. I only spoke to the agents.

2 Q. And at no time prior to the arrest of Ali Kourani, did you  
3 ask to speak to a prosecutor?

4 A. No, I didn't. I relied on Costello and the other agent.

5 Q. You've obtained immunity before for other clients, correct?

6 A. Probably. I don't remember.

7 Q. You probably obtained?

8 A. I've discussed it but I've never gone to -- no. The answer  
9 is I do not remember going to get immunity for somebody to  
10 testify. Nor did I think I was asking for immunity here.

11 Q. And as a law professor --

12 THE COURT: What does it mean not to ask for immunity  
13 but to expect immunity?

14 THE WITNESS: Your Honor, I didn't think immunity was  
15 even the issue. I thought it was understood that he was  
16 somebody cooperating with the FBI because they thought he had  
17 information and he was volunteering it and that they did not  
18 consider him a target or a defendant and they were seeking  
19 information and they would use elsewhere. If I had ever  
20 thought for a minute that everything we said could have been  
21 used against him I would have said --

22 THE COURT: Why didn't you ask for a letter of  
23 immunity.

24 THE WITNESS: Your Honor, I never thought of it.

25 THE COURT: You knew the procedure to be -- you

13QAAKOU6

Denbeaux - Cross

1 haven't given any testimony about receiving a promise of no  
2 prosecution except things you said. So how could you expect  
3 there would be immunity?

4 THE WITNESS: Well, I had never dealt with a federal  
5 case involving a criminal prosecution or immunity or anything  
6 else. Whatever it is I called him up and said we have noticing  
7 and apparently they wanted it. I said this is what he wants  
8 and this is our understanding and they agreed with it. Whether  
9 I should have gone further or not, I don't know. But that was  
10 the basis upon which the interviewing was proceeding as far as  
11 I was concerned and I'm sure as far as Mr. Kourani as  
12 concerned.

13 THE COURT: You said you knew that the agents lacked  
14 authority themselves.

15 THE WITNESS: I knew they lacked authority to give him  
16 what he hoped for which is to move his children back to the  
17 United States.

18 THE COURT: And they lacked authority as well to give  
19 him them immunity --

20 THE WITNESS: I did not know that. I should have. I  
21 never thought of it, your Honor.

22 THE COURT: In answer to one of Mr. Bove's questions  
23 you said you knew that only the prosecutor could give immunity.

24 THE WITNESS: Yes, your Honor. I knew that.

25 THE COURT: You knew these fellows were not

13QAAKOU6

Denbeaux - Cross

1 prosecutors. They were is special agents.

2 THE WITNESS: Right. And I thought that nothing we  
3 said were going to be used in any way against him because he  
4 wasn't a target and there was no criminal risk at stake.

5 THE COURT: But you never were told you said it,  
6 didn't say it?

7 THE WITNESS: I told them what I understood the  
8 premise was and we repeated it over and over again. At no  
9 point was I ever advised the assumptions that we were making or  
10 that I'd put in writing were not true and being upheld. The  
11 only thing we ever discussed was their inability to provide the  
12 assistance that he was needing to move people into the country.  
13 And I think I fully understood that was a difficult task and  
14 they might have a hard time doing it but that was all we were  
15 talking about.

16 THE COURT: -- using their best efforts?

17 THE WITNESS: Yes, they promised they would use their  
18 best efforts and they were confident more at sometimes than  
19 others they would be able to do it. But at all times we were  
20 assuming that they would do their very best and it would be  
21 held in confidence and that they would be grateful to him for  
22 his efforts.

23 BY MR. BOVE:

24 Q. You testified that you believed you were introduced to  
25 Mr. Kourani in the late fall or perhaps into December of 2016?

I3QAAKOU6

Denbeaux - Cross

1 A. Yes.

2 Q. And it was a Mr. Ali that introduced you to Mr. Kourani,  
3 correct?

4 A. No.

5 Q. Who introduced you to Mr. Kourani?

6 A. A friend of mine named Joseph Hickman, a former  
7 intelligence analyst I had been working with on some other  
8 questions. He lived in Wisconsin. He called me to tell me  
9 that he had a friend who was having serious domestic problems  
10 dealing with his children. He wanted to know if I could help.  
11 My wife did family work and had done a great deal of it but she  
12 had recently did and I advised him that I could not possibly do  
13 that.

14 Q. Did Mr. Hickman tell you that Mr. Kourani wanted to meet  
15 with the FBI?

16 A. I don't remember or that he said they wanted to meet or the  
17 FBI wanted to talk to him. But when Mr. Kourani came to talk  
18 to me he made that clear that the FBI wanted to talk to him and  
19 he was willing to talk to the FBI but he wanted their help  
20 getting his children.

21 Q. And you told Mr. Kourani when you met him that you knew how  
22 to deal with FBI agents and CIA agents?

23 A. It's pretty clear I have no idea how to deal with CIA  
24 agents and I have no experience dealing with FBI agents.

25 Q. So you never conveyed that to Mr. Kourani?

13QAAKOU6

Denbeaux - Cross

1 A. I don't remember doing it.

2 THE COURT: Keep your voice up, Mr. Bove.

3 Q. Now, do you remember the first date that you reached out to  
4 the FBI?

5 A. No.

6 Q. You submitted two sworn declarations in this case, correct?

7 A. I believe so.

8 Q. One of them was dated December 20, 2017?

9 A. I don't have a copy. I'm sure whatever date you have is  
10 the one I signed.

11 MR. BOVE: Can we take a look at Government Exhibit  
12 702 in evidence please?

13 THE COURT: 702?

14 Q. Do you recognize that document?

15 A. I'm sure this is --

16 Q. I am going to bring a hard copy.

17 A. OK.

18 Q. Let us know if you recognize that?

19 A. Yes, I do.

20 Q. Is that your signature on page four?

21 A. Yes.

22 MR. BOVE: Your Honor, the government offers 702.

23 MR. SCHACHT: I have no objection.

24 THE COURT: Received.

25 (Government's Exhibit 702 received in evidence)

13QAAKOU6

Denbeaux - Cross

1 Q. You signed this document under penalty of perjury?

2 A. I don't know what it says but I don't see it sworn to but  
3 it's certainly -- Yes. It says under penalty of perjury.

4 THE COURT: It's pursuant to 28 U.S.C. 1746.

5 THE WITNESS: Yes, your Honor.

6 THE COURT: You understand, you know about that  
7 section?

8 THE WITNESS: Yes, I do. I was --

9 THE COURT: So you can't say it's not under penalty of  
10 perjury.

11 THE WITNESS: I was looking at jurat at the end.

12 THE COURT: But a declaration of 28 U.S.C. 1746 is the  
13 same?

14 THE WITNESS: Yes.

15 THE COURT: You understand that?

16 THE WITNESS: Yes, I do, your Honor.

17 Q. That line continues -- reading from government 702 --  
18 declares under penalty of perjury, correct?

19 A. That's correct.

20 Q. And Mr. Schact wrote this document for you?

21 A. Yes, he wrote most of it.

22 Q. He wrote most of it?

23 A. Yes.

24 Q. Because let's take a look at paragraph two, right, do you  
25 see that and it starts on February 28, 2017?

13QAAKOU6

Denbeaux - Cross

1 A. Yes.

2 Q. That's not a date that you have any independent  
3 recollection of, correct?

4 A. I don't think so, no.

5 Q. But you signed this document?

6 A. Yes.

7 Q. Now, you testified earlier about what you believed was the  
8 first phone call that you had with Special Agents Shannon and  
9 Costello, correct?10 A. I did earlier. I don't think I said I knew which one was  
11 which.

12 Q. Do you remember the date of the first phone call?

13 A. It was somewhere in the winter about this time prior to our  
14 first meeting.

15 Q. But you don't remember it being on March 2, 2017?

16 THE COURT: I think it's safe to say that Mr. Denbeaux  
17 is not aware of the precise dates and took from Mr. Schact what  
18 the dates were, right?

19 THE WITNESS: That's right.

20 Q. Now you testified on direct that you don't remember the  
21 topic of confidentiality coming up on this first phone call,  
22 right?

23 A. Not the first phone call.

24 MR. BOVE: If we could take a look the page two of  
25 Government Exhibit 702 and zoom-in on the carryover of

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Denbeaux - Cross

1 paragraph two on the top of the page. The last sentence of  
2 this paragraph of the sworn declaration reads:

3 I mentioned that the defendant was very nervous about  
4 his and his family's physical safety should anyone find out  
5 that he was talking to the FBI. I was assured that any meeting  
6 would, quote, remain confidential.

7 do you see that?

8 A. Yes.

9 Q. You don't have an independent recollection of that being  
10 said during the call, correct?

11 A. Well, I don't remember the date of this call. I don't  
12 remember the date of the call with both Shannon and Costello.  
13 I remember there was a call before that as well trying to  
14 schedule it. This was a more substantive call.

15 Q. But you do not have an independent recollection of the  
16 phrase "remain confidential" being used during a telephone call  
17 with Special Agent Shannon and Special Agent Costello?

18 A. I don't remember that.

19 Q. Nevertheless, in this sworn declaration you included that  
20 phrase in quotation marks, right?

21 A. Yes. I said that every single time, I had communications  
22 with them by phone or in person.

23 Q. And you understood that this declaration was going to be  
24 used in support of Mr. Kourani's motion, right?

25 A. Yes.

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Denbeaux - Cross

1 Q. And that it was important to be honest about the state of  
2 your recollection?

3 A. Yes, it is.

4 Q. And that it was important to inform the Court of salient  
5 facts relating to your interactions with the FBI, correct?

6 A. Yes.

7 Q. It is simply not true that you have a recollection of this  
8 phrase "remain confidential" being used during the March 22?

9 THE COURT: Overruled.

10 MR. SCHACHT: I am objecting because of the timeframe.  
11 It's not relevant.

12 THE COURT: Overruled.

13 MR. SCHACHT: What he recollects today.

14 THE COURT: When you get up to object, folks, there is  
15 one word to say, "objection". If I need further information,  
16 I'll ask for it. I don't want any speaking objections.

17 Understand, Mr. Schact?

18 MR. SCHACHT: Yes, your Honor.

19 THE COURT: Don't do it again.

20 MR. SCHACHT: All right.

21 A. So I don't understand when you say March 22 or February 28?

22 Q. I'm focused right now on the portion of your declaration  
23 related to the March 22, 2017 call. And your summary, the  
24 sworn declaration of that call includes the phrase in quotation  
25 marks "remain confidential", correct?

13QAAKOU6

Denbeaux - Cross

1 A. Yes.

2 Q. You do not have an independent recollection of that phrase  
3 being used during a phone call on March 22, 2017?4 A. I do not remember that phrase being used in that phone  
5 call. I remember it used in almost every phone call.

6 Q. That's not what you testified to on direct, is it?

7 A. I don't remember.

8 Q. Now, this declaration that you signed under penalty of  
9 perjury does not say anything about discussions of immunity,  
10 right?

11 A. It does not.

12 Q. Cause there were no discussions about immunity?

13 A. There were no discussions about immunity.

14 Q. And did you summarize this call to Mr. Kourani after it  
15 happened?16 A. I summarized this call. I went through these materials  
17 with him and he and I drafted this and I believe it accurately  
18 reelects everything that I had told him.19 THE COURT: I thought you were mixing up Schact and  
20 Kourani. The question was what were you -- Mr. Kourani, your  
21 client?

22 Is that right, Mr. Bove?

23 MR. BOVE: Yes?

24 THE WITNESS: I'm sorry. I didn't understand the  
25 question.

13QAAKOU6

Denbeaux - Cross

1 Q. Do you remember having a conversation with Mr. Kourani  
2 about the phone calls with the FBI?

3 A. Yes.

4 Q. And did you use the word "immunity" during that  
5 conversation?

6 A. I don't have a memory of what I said to him when I talked  
7 about it but I presume I didn't use "immunity". I used  
8 "confidentiality".

9 Q. Now let's take a look at Government Exhibit 402.

10 A. I find this -- could you give me a hard copy of that also?

11 Q. Here is a hard copy of that.

12 A. All right.

13 Q. Now, in your sworn declaration you described this document  
14 as a typed summary of my notes concerning what was previously  
15 discussed. Do you recall swearing to that under penalty of  
16 perjury? This is paragraph eight of Government Exhibit 702.

17 A. I don't believe I had any notes. I didn't have any notes.  
18 That was my memory of what had been discussed the day before.

19 Q. So paragraph eight of Government Exhibit 702 is inaccurate  
20 in that respect?

21 A. Yeah. I didn't take notes. It was based on my memory.

22 Q. When Mr. Schact sent you the declaration did you make any  
23 changes to it?

24 A. I believe so.

25 Q. How did you communicate the changes to the declaration that

13QAAKOU6

Denbeaux - Cross

1 you wanted to make to Mr. Schact?

2 A. I don't recall. I think he met with me in my office and we  
3 talked about it.

4 Q. Did you send him any e-mails about the declaration?

5 A. Not that I know of.

6 Q. And you filed a second declaration in this case, correct?

7 A. Yes, apparently.

8 Q. You don't recall?

9 A. I think I recall at least one or maybe two. I'm not sure  
10 which one came first.

11 Q. Showing you what's been marked for identification as  
12 Government Exhibit 1005; do you see that?

13 A. Oh, yes, right.

14 Q. What is this?

15 A. I think it was a statement I was asked by, if I had taken  
16 any notes and I had advised him that I had no notes and I think  
17 Mr. Schact asked me to sign an affidavit confirming that. And  
18 I made no notes and I never have any notes.

19 MR. BOVE: Your Honor, the government offers  
20 Government Exhibit 1005.

21 MR. SCHACHT: No objection.

22 THE COURT: Received.

23 (Government's Exhibit 1005 received in evidence)

24 Q. That document sworn under penalty of perjury is accurate;  
25 is that your testimony?

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Denbeaux - Cross

1 A. Yes.

2 Q. And Government Exhibit 702 sworn under penalty of perjury  
3 is not accurate, correct?

4 A. Yes, it's not accurate as to my notes.

5 THE COURT: And it wasn't accurate as to the memory of  
6 your meeting, right?

7 THE WITNESS: Could you repeat that?

8 THE COURT: And it wasn't accurate as to the memory of  
9 the date of the meeting? You didn't have a memory?

10 THE WITNESS: No. I didn't have a memory.

11 THE COURT: Even though you said you had.

12 THE WITNESS: Yes.

13 MR. BOVE: Let's take a look the 702, page two,  
14 please.15 Q. Do you remember the date of your first interview with  
16 Mr. Kourani and Special Agent Costello and Shannon?

17 A. No, I don't.

18 Q. But here in paragraph three you swore under penalty of  
19 perjury that it occurred on or about March 24, 2017?

20 A. On or about March 24 would be right about.

21 Q. But you don't have any independent recollection of the  
22 specific date?

23 A. No. I knew it was in March.

24 Q. Nevertheless, you included that date in this declaration,  
25 correct?

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Denbeaux - Cross

1           MR. SCHACHT: Objection, your Honor.

2           THE COURT: Overruled.

3           A. If that's what I said, that's what I said.

4           Q. You testified on direct exam about having a recollection of  
5 text messages that you sent to Special Agent Costello?

6           A. I have at least one I remember quite strongly.

7           MR. BOVE: Could we take a look the Government Exhibit  
8 301 in evidence. Zoom-in on the top message.

9           A. Yes.

10          Q. Do you recall sending this message to Special Agent  
11 Costello?

12          A. Yes.

13          Q. Do you recall it being on March 23rd of 2007 independently  
14 of the date at the top of this?

15          A. No.

16          Q. You testified on direct that your references in this text  
17 message the word "promise" was a reference to immigration  
18 benefits that Kourani had requested?

19          A. Yes.

20          Q. And you were clear with Special Agent Costello that you  
21 understood that you could not promise or guarantee, right?

22          A. Yes.

23          Q. But in your declaration Government Exhibit 702 you said the  
24 agents conveyed the sense they were guaranteeing help with  
25 insuring safety; do you see that?

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Denbeaux - Cross

1 A. Yes.

2 Q. That's not accurate, is it?

3 A. I think it is accurate. They repeatedly conveyed it and  
4 they repeatedly said we can't promise but this is what we  
5 believe we're doing. We are going to talk to our bosses.  
6 They're very pleased with what's happening so far. We need  
7 more information because it's a heavy lift to get children  
8 moved out of Canada and that conversation came up over and over  
9 again.10 Q. And as you said, they repeatedly said that they could not  
11 promise?

12 A. That's right.

13 MR. BOVE: Let's go back to Government Exhibit 402  
14 please.

15 THE COURT: What's the exhibit number?

16 MR. BOVE: 402, judge.

17 Zoom-in on the top section.

18 A. Yes.

19 Q. This is the document that you handed to the agents in a  
20 second interview, correct?

21 A. Correct.

22 Q. And let's focus on paragraph number two. It starts out  
23 with he is not seeking any kind of immunity or protection,  
24 correct?

25 A. Yep.

I3QAAKOU6

Denbeaux - Cross

1 Q. And when you wrote "he" there that was a reference to  
2 Kourani?

3 A. Yes. But's not the rest of the sentence. The sentence  
4 goes on, right?

5 Q. It does and we'll get to that. The sentence continues that  
6 it has already been agreed he has committed no crime. Do you  
7 see that phrase "committed no crime"?

8 A. Yes.

9 Q. You were at the first interview of Ali Kourani, correct?

10 A. Yes.

11 Q. You don't remember the exact date but you know there was  
12 one before this document was provided?

13 A. Yes.

14 Q. And during that meeting Mr. Kourani admitted to being a  
15 member of Hezbollah, correct?

16 A. Yes.

17 Q. He admitted to having received training from Hezbollah in  
18 Lebanon?

19 A. Yes.

20 Q. He admitted to having conducted surveillance of targets in  
21 the United States such as at 26 Federal Plaza?

22 A. I don't remember what meeting you are talking about but,  
23 yes. He had certainly had said that at some point.

24 Q. Well, you're sure that in the first meeting he admitted  
25 that he was a member of Hezbollah?

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Denbeaux - Cross

1 A. Yes, he did.

2 Q. He described some of training he received. Based on those  
3 admissions, sir, how could you possibly believe that he had  
4 committed no crime?

5 A. The answer was this was agreed to before the meeting even  
6 started and that was what these meetings are not. This is not  
7 a plea negotiations. This was written after the first meeting  
8 describing what we had agreed upon.

9 THE COURT: So the question is after you heard your  
10 client admit that belonging to a terrorist organization, how  
11 could you write that it's agreed that he has committed no  
12 crimes?

13 MR. SCHACHT: Objection.

14 THE COURT: On what ground?

15 MR. SCHACHT: He didn't admit that he was a member of  
16 a terrorist organization. He admitted that --

17 THE COURT: A member of Hezbollah and Hezbollah is a  
18 terrorist organization.

19 MR. SCHACHT: It's not a crime to be a member of  
20 Hezbollah.

21 MR. BOVE: Judge, the witness just testified it was a  
22 crime.

23 THE COURT: Let's modify the question.

24 After hearing that he was a member of Hezbollah and  
25 had received training from them, how could you say that it was

I3QAAKOU6

Denbeaux - Cross

1 agreed he had committed no crime?

2 THE WITNESS: I did not believe being a member of  
3 Hezbollah in Lebanon and training in Lebanon would constitute a  
4 crime in the United States.

5 Q. What was your basis for that belief?

6 A. I did no research. I believed that to be the case. If I'm  
7 wrong, I'm wrong. You asked why I wrote that and how could I  
8 do it. It's because I didn't believe that being a member of  
9 Hezbollah in Lebanon was a crime.

10 Q. You said that it's your testimony that he has committed no  
11 crime conversation happened before the present interview?

12 A. Yes. At the beginning of the interview we started.  
Nothing here wasn't already discussed, at least the first part  
14 of it, before anything happened.

15 Q. So it was your belief that agents from the Federal Bureau  
16 of Investigation could make that agreement before hearing a  
17 word that Mr. Kourani said?

18 A. Yes. Because I told him we weren't going to be talking any  
19 further if that wasn't agreed to.

20 Q. You also wrote in this document that Kourani faces no  
21 prosecution; do you see that?

22 A. Yes.

23 Q. But you already testified that you never spoke to a  
24 prosecutor prior to the arrest of Ali Kourani?

25 A. Right. I only spoke to the agents.

13QAAKOU6

Denbeaux - Cross

1 Q. And no agent mentioned a prosecutor to you, correct?

2 A. No. And no agent also told me that this is, none of this  
3 is true and that we still we want to continue with this  
4 conversation.

5 Q. Well, sir, let's talk about the format of this document?

6 THE COURT: May I interrupt? It's 5:35. Where are  
7 you going? I don't think we're going to finish by six. So  
8 maybe we should resume tomorrow at 11?

9 MR. BOVE: I think that makes sense, judge.

10 THE COURT: Yes.

11 Off the record.

12 (Discussion held)

13 THE COURT: Mr. Bove makes a request that since you  
14 are on cross-examination that you not speak to anyone about  
15 this case.

16 Any objection to that, Mr. Schact?

17 MR. SCHACHT: Absolutely, not. The only conversation  
18 I would have with him is about scheduling to make sure he is  
19 here.

20 THE COURT: We've already done that. You need not to  
21 have any conversation.

22 THE WITNESS: Yes, your Honor.

23 THE COURT: No conversations with anyone about this  
24 case or the facts of this case.

25 (Adjourned to Tuesday, March 27, 2017 at 2:30 p.m.)

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